104

PROSPECTS FOR PEACE WITH JUSTICE IN BOSNIA

Y 4. IN 8/16: P 31/7

Prospects for Peace With Justice in...

HEARING

BEFORE THE

COMMITTEE ON INTERNATIONAL RELATIONS HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTH CONGRESS

SECOND SESSION

FEBRUARY 1, 1996

Printed for the use of the Committee on International Relations

MAY 23 1996

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PROSPECTS FOR PEACE WITH JUSTICE IN BOSNIA

THURSDAY, FEBRUARY 1, 1996

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC.

The committee met, pursuant to call, at 10:25 a.m. in room 2172, Rayburn House Office Building, Hon. Benjamin A. Gilman (chairman of the committee) presiding.

Mr. ROHRABACHER [presiding]. This hearing of the International Relations Committee is in order. I am very grateful to be chairing the meeting today. We are pleased to have with us today Secretary John Shattuck, who is Assistant Secretary of State in charge of the Bureau of Democracy, Human Rights and Labor at the State Department.

This is the first opportunity for this committee to review developments in Bosnia since the deployment of U.S. troops began. The purpose of this hearing is to focus on issues related to the restoration of human rights in Bosnia, a key provision of the Dayton Agreement.

Secretary Shattuck visited Srebranica, Bosnia earlier this month and was able to see firsthand evidence of atrocities committed in that area, which I understand was a U.N.-declared safe area, which fell to the Serbs last summer. We will hear from the Secretary about efforts to ensure that evidence of war crimes is preserved and that international investigators are able to conduct their business in Bosnia without interference from any party. I also hope that the Secretary will discuss implementation of the human rights provisions of the Dayton Agreement.

And with that, I would like to, again, welcome the Secretary, but also recognize Mr. Hamilton, former chairman, distinguished chairman of this committee, to see if he has an opening statement.

Mr. HAMILTON. Thank you very much, Mr. Chairman. I just want to join you in welcoming Secretary Shattuck before us. We are looking forward to his testimony. Thank you very much.

Mr. ROHRABACHER. Does anyone else have an opening statement?

With that, Mr. Shattuck, we will just move directly on to your opening statement, and then we will hopefully have some questions for you after your statement.

STATEMENT OF HON. JOHN SHATTUCK, ASSISTANT SECRETARY OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR

Mr. SHATTUCK. Thank you very much, Mr. Chairman. I have a lengthy opening statement, which I will cover in part and submit the rest for the record.

Mr. ROHRABACHER. Without objection.

Mr. SHATTUCK. Mr. Chairman, as we all know, the war in Bosnia has been the most serious conflict in Europe since World War II in terms of armed conflict, and the gravest threat to the stability of Europe since the cold war. Each time I have had the privilege of appearing before this committee in the past, I have underscored the importance of human rights issues as a fundamental pillar of U.S. foreign policy. Nowhere is this more true than in Bosnia and Herzegovina, where Europe has witnessed the most terrible crimes against humanity since the holocaust.

Thank you, Mr. Chairman.

The CHAIRMAN [presiding]. You are welcome.

Mr. SHATTUCK. I have visited Bosnia, Croatia and Serbia on eight separate missions, seven of them since last July. My efforts have centered on exposing violations of human rights by all parties, seeking free access to all parts of Bosnia for international investigators and the media, arranging releases of prisoners and detainees, seeking cooperation with the International War Crimes Tribunal, and facilitating compliance with the peace agreement.

In Tuzla last July, I interviewed survivors of mass execution efforts and executions that had occurred after Srebrenica was overrun. I traveled to the Krajina later and publicly denounced Croatian pressure on the Serb population in the Krajina, where Serbs were forced out and attacked and some elderly were killed.

In central and western Bosnia I visited mass grave sites prior to the Dayton discussions having been concluded. I reached Banja Luka, again, prior to Dayton's having been completed in the first trip by any international observer across the confrontation line from Sarajevo in order to emphasize the importance of freedom of travel in Bosnia. Last week, I was able to reach the Bosnian Serb areas around Srebrenica and I will have more to say about that in a few moments.

On each of those missions, Mr. Chairman, I have worked in very close cooperation with my colleague, Assistant Secretary Dick Holbrooke, who has done an extraordinary job in leading the peace efforts on the ground, and under the direct leadership of Secretary Christopher and the President. I am proud that these human rights missions have been at the forefront of one of our country's highest foreign policy priorities, and I deeply appreciate the support that I have received from you, Mr. Chairman, and from this committee and from the Congress.

I would like to focus my remarks today on the Dayton Peace Accords and our work since November to implement that agreement. As you know, I was at Dayton and was involved personally in negotiating the Accords. I have traveled to Europe and to the former Yugoslavia three times since then to pursue the human rights aspects of implementation. I will be leaving for the region again tomorrow with Secretary Christopher, to continue our work.

From a human rights perspective, the Dayton Accords, I think, are a remarkable, even a landmark document. Never before has a peace treaty placed such heavy emphasis on human rights. This emphasis reflects our conviction and the facts that human rights issues are at the core of our effort to bring peace to the former Yugoslavia.

Let me review for you some of the key elements of the Dayton Agreement which are set forth in more detail in my full statement. First, the Accords include a new constitution for Bosnia that guarantees all its people the highest level of internationally recognized human rights and fundamental freedoms.

Second, the Accords create a commission on human rights in Bosnia to safeguard the rights guaranteed by the constitution. The commission will have two parts, an independent Human Rights Ombudsman and a Human Rights Chamber or special court.

Third, the Dayton Accords provide that free and democratic elections are to be held throughout Bosnia and Herzegovina in the second half of this year.

Fourth, the agreement obligates all parties to release, without delay, all civilians and combatants who have been held in relation to the conflict, including those in forced labor and to give the International Committee of the Red Cross access to all places of detention.

This process has begun, and I will expand on its status and some of the work that we are doing to see that it is completed in a moment.

Finally, the Dayton Accords obligate the parties to cooperate fully with the International War Crimes Tribunal for the former Yugoslavia in its investigations of war crimes and other violations of international humanitarian law, and to comply with its orders. This obligation binds all the parties, including Serbia, Croatia, Bosnia and Herzegovina and the Serb Republic.

Security Council resolutions establishing the Tribunal make cooperation a binding obligation on all nations, and we are very pleased that Section 1342 of the Department of Defense authorization bill, which was signed into law 2 days ago, will bring the United States into full compliance with its own international obligation to cooperate with the War Crimes Tribunal. We appreciate the broad bipartisan support in the Congress for this provision, the Tribunal and its work, and we hope it will encourage other nations to follow our example.

Mr. Chairman, the challenge facing us since Dayton has been to put these key human rights provisions, which I have just briefly described, and which are set forth in more detail in my testimony, into practice. We are making progress. Although we still face substantial hurdles to be sure, we need to overcome the tremendous distrust and ill will that permeates the entire political atmosphere in the area in the aftermath of such a horrible war. There are certain to be problems and setbacks as we try to move forward. We must be prepared for those. We must be patient. But we must be resolute in our effort to overcome them and to keep moving forward. We are determined to make this process work, and we are putting a major effort, with your support, into this implementation.

I would like to comment on several elements of the implementation process. The first area is prisoner releases. The release of prisoners of war and civilian detainees is one of the highest priorities on our implementation agenda. It is a way of building confidence and promoting human rights at the same time.

Under the Dayton Accords all prisoners were to be released by January 19th. These releases were not completed by the target date. Since then there has been substantial progress and most of the first group of prisoners who have been identified and visited by the International Committee for the Red Cross have now been released.

The International Committee of the Red Cross has registered an initial total of 938 prisoners held by the parties. Of these, 225 were released on schedule on January 19th. Another 612 have been released since. Our best information is that 101 individuals registered by the ICRC remain in custody, and many more who have not been registered no doubt still need to be identified for release.

Of these, 17 are held by the Bosnian government, 30 by the Bosnian Serbs and 54 by the Bosnian Croats. Each side asserts that some of the individuals it is holding are suspected war criminals. The Dayton Accords require the parties to cooperate extensively with the International Tribunal so as to help bring about the arrest, detention and surrender of persons who would otherwise be released but who are accused of violations within the jurisdiction of the Tribunal.

My trip, Mr. Chairman, to Bosnia last week, my eighth of its kind, centered on breaking the prisoner logjam and putting into place a system to ensure compliance with prisoner release obligations. I think the system that we put in place is beginning to show success.

I met with President Milosevic and urged him to press the Bosnian Serbs to move forward with releases, and they have done so, but not by any means all. I also met several times with President Izetbegovic and pressed him to comply with his Dayton obligations by releasing immediately and unconditionally all prisoners and detainees.

Ambassador Galbraith in Croatia met with Bosnian Croat officials and with Federation President Zubak to make the same points with them.

The Bosnian leadership was especially concerned that with thousands of its citizens still missing and unaccounted for, it could not complete releases of Serbian prisoners without some assurance that its citizens would be fully accounted for.

I stressed in my meetings that the released could not be conditioned on any other development, but that the separate issue of the missing should be addressed urgently. Our view is that all prisoners and detainees must be released immediately and unconditionally. This includes not only those in prisons and detention camps, but also individuals held under so-called "work obligation," who are now beginning to be released in the Banja Luka area.

To meet Bosnia's legitimate concerns about missing persons, I worked with the International Committee of the Red Cross to structure a system for identifying and preparing for release any remaining persons held in relation to the conflict. We also estab-

lished a working group led by the ICRC, which will include representatives of the High Representative, the United Nations, the OSCE, and other relevant parties.

Prisoner releases and accounting for missing persons remain crucial issues for the success of the entire peace process. In view of this, I have proposed, and the Secretary of State has put into place, that we detail a senior U.S. official to help advance the efforts in the days and weeks ahead. In addition, I will continue to give personal attention to the prisoner release issue. As one element of this process, I spent several hours earlier this week with Cornelio Sommaruga, the President of the ICRC, to coordinate our joint efforts on releases.

Let me turn now to the core issue of justice, Mr. Chairman. The United States has made a major commitment to the International War Crimes Tribunal for the former Yugoslavia. A central element of the effort to bring about peace and reconciliation in Bosnia must be the creation of institutions to pursue truth and justice about the terrible crimes committed during the course of the conflict.

As President Clinton himself emphasized in his October speech on the occasion of the 50th anniversary of the Nuremberg Tribunal, "No peace will endure for long without justice. For only justice can break finally the cycle of violence and retribution that fuels war and crimes against humanity. Only justice can lift the burden of collective guilt....Only justice can assign responsibility to the guilty and allow everyone else to get on with the hard work of rebuilding and reconciliation."

The War Crimes Tribunal is moving ahead with its work under the able leadership of its chief prosecutor, Justice Richard Goldstone. It has handed down 52 indictments to date.

The United States is providing strong support to the Tribunal. We have contributed more than $14 million in cash in kind to the Tribunal—with the support of this Congress—and have provided 22 U.S. Government personnel to assist in its work. We continue to provide the Tribunal with broad diplomatic support.

Secretary Christopher will reiterate this support when he travels to Zagreb, Sarajevo and Belgrade this weekend.

One aspect of our support for the Tribunal, which requires special mention, is information sharing. We have provided the Tribunal with appropriate information available to us from a wide variety of sources, including classified information on events within its mandate. I have met frequently with Justice Goldstone on this issue, as have the Secretaries of State and Defense and the Director of Central Intelligence. On his most recent visit to Washington, Justice Goldstone pronounced himself fully satisfied with our efforts.

On my trip to the region last week, a major issue was gaining access for the Tribunal to the sites of atrocities and mass murders that occurred during the war. We made Srebrenica, site of one of the worst such massacres, a test case of freedom of access and freedom of movement under the Dayton Accords. To do this, the United States pressed President Milosevic to work with the Bosnian Serbs in granting access and security protection for my team.

I informed Milosevic and the Bosnian Serbs that I would be accompanied on my visits by two investigative officials of the Tribu-

nal, and that I would have to be guaranteed unimpeded access as required by the Dayton Accords. I did not disclose in advance any of the sites I wished to visit, but I waited until I had crossed the Drina River into Bosnian-Serb territory before I told the Serb authorities where to go.

Incidentally, Mr. Chairman, if there is any interest in the details of where we went I brought a map with me which I could use if there are any questions in that area.

My team was, in fact, given full and unimpeded access to all the sites we wished to visit, which was a very important step forward for Dayton implementation. The Tribunal investigators who accompanied me filmed sites and collected evidence that will be used in prosecutions. Although this visit was only the beginning of what needs to be done, the cooperation and assistance my mission received was a very important test of the willingness of one, indeed two, of the parties to meet their obligations.

In the wake of my visit to Srebrenica, I met in Sarajevo with NATO Commander Admiral Leighton Smith whom I had also met prior to my visit and with Justice Goldstone and they agreed on ways to coordinate their respective missions under the Dayton Accords, consistent with the primary mission of IFOR to separate the forces. Admiral Smith has made clear that IFOR will be able to provide appropriate assistance to ensure area security for Tribunal teams carrying out investigations, and he has made clear that that is part of the secondary mission that IFOR has spelled out for it in Annex 1A of the Dayton Agreements.

Justice Goldstone stated during their meeting that he is satisfied with the level of support offered by Admiral Smith and agreed that IFOR support should be provided within the limits of its mandate and available resources.

I would like to say a few words about my mission to Srebrenica, which was perhaps the most moving and grueling experience I have had in all my trips to the region, and indeed in all my human rights missions around the world over the last 3 years. I visited seven sites which echoed with the horrors of the conflict: a school and gymnasium near Karakaj where non-Serbs had been herded, then taken in groups of 30 to a field 2 kilometers away and murdered, according to survivors of those mass executions whom I had interviewed in July in Tuzla and whom the International War Crimes Tribunal investigators had interviewed in larger numbers; an intersection at Konjevici where victims, told to find a free place to stand, had been lined up in rows and shot by armored personnel carriers; a soccer field in Kasaba where as many as 2,000 Bosnians had been herded before being taken away and killed; two mass graves in Glogova where evidence of human bones and clothing remained; a house in Potocari where Muslims were separated and herded on to buses, and the town of Srebrenica itself, now decimated, where the onslaught began.

The starkest site of all was a large warehouse in Kravica, bloodstained and riddled with bullet holes and evidence of grenades, where thousands of innocent civilians were murdered in cold blood after they were coaxed down from the hills by men wearing stolen U.N. uniforms who told them with bull horns that they would be taken to safety.

Each site I visited corroborated fully the accounts and detailed descriptions given to me in Tuzla in late July by survivors of the mass executions in Srebrenica. There can be no doubt whatever after such a visit that truly horrendous war crimes occurred. The evidence is clear and compelling. We are paying careful attention to what is happening at these sites and we have made clear that any attempts to tamper with evidence would be incriminating, because it has now been filmed and documented by the War Crimes Tribunal investigators who were with me.

On this matter, as on all others, we will be rigorous and even-handed in insisting that each party adhere fully to the Dayton Accords, and I received firm commitments from President Milosevic and from the Bosnian Serbs that they would do so, and we will certainly hold them to that.

I want to reiterate the importance that we, and I know this Congress, attaches to the Tribunal and its work. As we have said on many occasions, and as the President indicated, there can be ultimately no lasting peace without justice. Only when the guilty are called to account will the people of Bosnia be able to return, turn their full energy to building a new and better future, and know that they are not collectively, by any means, guilty for these terrible crimes that occurred.

Finally, but not least, Mr. Chairman, I would like to briefly outline for you some of the many human rights activities underway on the civilian side of the Dayton implementation. Unlike the military side, entirely new civilian structures must be created and put into place. That takes time and resources, and that is why I think it is clear that the civilian efforts are moving more slowly at this point than the military. They are longer term. Nevertheless, civilian structures are beginning to fall into place and work is underway.

Overall coordination of the implementation on the civilian side, including human rights and elections, is carried out by the High Representative, as called for by the Dayton Accords. The High Representative's office has established a Human Rights Task Force to coordinate civilian human rights work in Bosnia. The Organization for Security and Cooperation in Europe is charged with organizing and overseeing free and fair elections throughout Bosnia within 6 to 9 months of signature of the peace accords. It has already fielded two visits by an electoral assessment team, in December and again in mid-January.

The team has prepared a preliminary planning document, which has been provided to the parties. One of the OSCE's highest priorities is to establish a Provisional Election Commission, which has now been named, which will be chaired by an American with experience in the region and on OSCE issues, Ambassador Robert Frowick, who also serves as the OSCE's Chief of Mission in Bosnia. The seven-member commission was named on January 30th. Ambassador Frowick will soon announce the criteria which will have to be met before he can recommend to the OSCE that certification should proceed for holding the elections. He has named a senior deputy to assist with preparations for the elections.

The OSCE is steadily building up its effort. It is opening five field offices throughout Bosnia and will deploy 30 delegations

around the country. The field offices will be staffed initially by European Commission Monitoring Mission and eventually by additional monitors currently being recruited and trained.

Several countries, including the United States, are working on the recruitment and training effort. The total number of OSCE monitors, both for elections and human rights monitoring, will be 250, of which the United States will provide 40 to 60. The total cost of OSCE activities in Bosnia is estimated at $25 million, of which the United States will contribute its assessed share of 9 percent or about $2.25 million.

The OSCE recognizes the close relationship between human rights conditions in Bosnia and the ability to certify and hold elections. For this reason, it intends to place a strong emphasis on promoting human rights. Ambassador Frowick is expected soon to appoint a senior American Deputy for Human Rights, and the OSCE-appointed ombudsman, a Swiss lawyer and diplomat, Gret Haller, will also play an important role in protecting human rights in the region.

Beyond our support for these multilateral efforts, the United States sees a critical need for civil society and rule of law programs in Bosnia. Some immediate civil society programs were planned with SEED funds to be administered by USAID, and when we have been able to make a comprehensive assessment of the legal and judicial systems in Bosnia we will be able to consider measures to strengthen the rule of law.

A key to establishing the rule of law and a secure and peaceful environment in Bosnia will be the reconstitution of a civilian police force. Anticipating this need, the Dayton Accords created an international police task force as a U.N.-civilian police operation to oversee local police activities.

The IPTF will monitor, advise and train local civilian police forces. Most importantly from a human rights standpoint, the IPTF will accompany the police as they carry out their duties, providing them with on-the-job training, including respect for human rights, and acting as a check on potential abuse of police power.

The United States has pledged to provide 200 of the police officers needed, with some portion of that total dedicated to the parallel effort of peacekeeping in eastern Slovenia. To date, however, we have been unable to transfer the funds necessary for this effort from the Defense Department, and we respectfully urge the Congress to take prompt action on the Administration's $200 million transfer request, some $50 million of which would be dedicated to the international police task force.

Looking ahead, Mr. Chairman, I will depart tomorrow, as I said, with Secretary Christopher, for my ninth mission to the region. We will have a full agenda. Human rights will be at the top of the list. In particular, we intend to continue our efforts on the three key sets of issues I have outlined for you today: Pursuing prisoner releases and accounting for the missing; ensuring access for and cooperation with the War Crimes Tribunal; and pressing ahead with implementation of the Dayton Agreements on human rights monitoring and the elections.

Mr. Chairman, I appreciate your patience and willingness to listen to this lengthy statement, as well as your understanding of the

complexity of the issues that are being addressed in the region. I also appreciate the support that we have seen on a bipartisan and cross-institution basis between the Congress and the President. We are deeply grateful for that, and I can tell you, as someone who carries the American flag in Bosnia, it is extremely important to me to feel that support behind me. I know, even though we may disagree on some details, that in this very central area of human rights at the heart of what this terrible conflict is all about, is the support that you have provided. Thank you very much.

[The prepared statement of Mr. Shattuck appears in the appendix.]

The CHAIRMAN. Secretary Shattuck, we appreciate your attending our hearing today. We want to commend you for your efforts, and I think this committee fully recognizes the importance of the human rights issue and bringing the perpetrators of the war crimes to justice. There can be no justice without restoration of the strong regime for the protection of human rights in that part of the world. I am so pleased you are out front on this and I know many of my colleagues join with me in that feeling.

Mr. Secretary, have the differences in IFOR's role in the investigation of human rights abuses between Admiral Smith and the State Department and Justice Goldstone now been resolved? And, also, can you tell us how many choppers or APC's will IFOR make available to the Tribunal?

Mr. SHATTUCK. Well, Mr. Chairman, I think there has been a very close cooperation and discussion among particularly the Tribunal, as you indicate, and IFOR Admiral Smith and Justice Goldstone, in their meeting in Sarajevo last week, and then discussions prior to that with General Jiwan and Justice Goldstone in Brussels.

I think what we see as the result of that agreement is reflected very straightforwardly in the mission that IFOR has, that is spelled out in Annex 1A of the Dayton Accords. The primary mission, of course, being the separation of forces and the security surrounding that, and then supporting mission also spelled out in Annex 1A to assist international organizations in the pursuit of their implementation of aspects of the Dayton Agreement, and that, of course, very centrally includes the War Crimes Tribunal.

I think what we have in the key statement that Admiral Smith and Justice Goldstone put out together on January 22nd is that IFOR will be able to provide, and I am reading from the statement, "appropriate assistance to ensure area security for Tribunal teams carrying out investigations and activities at mass grave sites."

Now, that's highly specific, and I think further discussion of ways in which there is going to be cooperation might, in fact, impinge on the other aspect of this statement, that they both have agreed to avoid public discussion of the details related to future Tribunal requests for IFOR assistance. Those areas of assistance that are contemplated, of course, are information exchange, detention, transportation, security and access to areas and sites. But I think the details of those kinds of arrangements are best left to Justice Goldstone and Admiral Smith.

But let me say very clearly, Mr. Chairman, because I know this has been a subject of interest and concern as well, that IFOR will

not actually conduct investigations. That is not its role. That is the role of the Tribunal. Nor will IFOR pursue suspects and persons who are under indictment. But it will, if it encounters them, assist in their detention.

The CHAIRMAN. Are you satisfied, then, with the cooperation you have received to date?

Mr. SHATTUCK. Yes. I think it has been good cooperation. There has been very good interagency coordination on this subject. It is a complicated subject, but I think it is a good one.

The CHAIRMAN. You can provide our committee with any needs you may have in the way of transportation or investigative ability and our committee certainly would stand ready to try to be of help to you.

Mr. Secretary, Bosnian and Foreign Minister Sacirbey has stated that his government believes there may be as many as 3,000 persons still being detained by the Serbs in Bosnia. Do we have any information to corroborate that claim and are we doing anything to help assist in that investigation?

Mr. SHATTUCK. Yes, Mr. Chairman. We are concerned about where the missing and unaccounted persons might be. And I have had extensive discussions, both with the Government of Bosnia and with the other parties, Milosevic and the Bosnian Serbs.

My visit to Srebrenica was one effort to track down missing persons from that area. We do believe that there are as many as 7,000 persons who are missing from the Srebrenica area. Many of them no doubt have lost their lives in the way I have described.

The CHAIRMAN. Do you have any evidence of some still being alive and being held?

Mr. SHATTUCK. We are very aggressively pursuing that. And through the International Committee for the Red Cross and the working group that I described in my testimony, we are going to be intensifying a search in the coming weeks for any who are missing that are still alive or in detention.

It is possible that some persons are still under so-called work obligation or forced labor in the Banja Luka area, where I have visited and have had discussions with the mayor of Banja Luka.

The formal work obligation requirements have been eliminated by the authorities, but that doesn't mean that some local authorities may not still be holding individuals. So we are going to actively and aggressively pursue that, and we will assign a U.S. person to that working group.

The CHAIRMAN. I hope you keep our committee apprised of that investigation.

And, Mr. Secretary, when we were in Bosnia a few weeks ago, we talked with President Tudjman about a commitment to pressure the Bosnian Croats to cooperate with the Bosnian Muslims in Mostar and other mixed communities to prevent oppression and violations. Has there been any success in that arena?

Mr. SHATTUCK. Well, I think the situation in Mostar has improved. It is a very important example of what I mentioned in my testimony, of the tremendous difficulty and the hostility that still exists in the area, and the fact that we are going to see backsliding at the same time that we see forward movement. But over the last several weeks, there have been several high level missions to

Mostar and the circumstances, I think, have become less tense over the last several weeks in that area. And a lot of attention is being focused on that by our Ambassador John Menjes in Sarajevo.

The CHAIRMAN. Thank you.

Mr. Hamilton.

Mr. HAMILTON. Mr. Chairman, I want to thank you for having the hearing. I really do think it is timely, and I appreciate very much your calling the hearing, and I also appreciate Mr. Shattuck's testimony.

Mr. Secretary, I don't understand this area security issue. When you were there, you said that security would be needed for grave investigations.

Now, if I understand what has to take place here, and I may not, but you have to send a lot of people into these grave sites. They have got to spend a lot of time there. They have to do a lot of excavating. They have to do a lot of interviewing of people. There is another group of people that won't like them doing that sort of thing. So I would think it is pretty dangerous business.

And if you are going to do it right, you are going to have to have security guards present so that those who would do harm to the investigators are deterred, or at least that is the way I would analyze it.

Now, what does area security mean? What is the size of the area to be secured? You have 200 grave sites, and if you are going to do the right kind of a job, you have to investigate those grave sites. That is going to take a lot of manpower, and it is going to take a lot of security, and it is going to be very expensive. What does area security mean?

Mr. SHATTUCK. Mr. Hamilton, let me go into that in some detail. I appreciate the concern that is expressed by the impact of these kinds of investigative activities.

First of all, we made a very important decision last week to press very hard on the Government of Serbia, Federal Republic of Yugoslavia, and Bosnian Serbs, to cooperate with the War Crimes Tribunal by allowing investigators into the Srebrenica area.

We made clear there would be consequences in the event that that cooperation was not permitted and did not occur. We secured that cooperation. So that is one very critical element. We are going to have to keep using aggressive diplomatic efforts to secure the cooperation of the parties with the Tribunal in the conduct of its investigations.

We went to six sites, and I saw no evidence of tampering in those sites, including at the mass grave site. I can't obviously testify that there hadn't been tampering, and I made clear in my meetings, both with the Bosnian Serbs and with Milosevic, that any tampering would itself be clearly the subject of further investigation. It would not be in their interest to do so and they agreed.

So one key element of this security situation is to press the parties through aggressive diplomatic efforts to cooperate.

Second is the role of IFOR in patrolling the areas, and when I was in the Srebrenica area, of course, there were IFOR patrols. They are only coming in now because the full complement of troops has not yet reached the ground. But they are already in these areas off the confrontation line, and are beginning their aggressive

patrolling activities. And so area security in terms of IFOR patrolling is a very central element of this.

Third, the international police task force is soon to be deployed and will work with local authorities to provide local security and the International Tribunal has made clear that it does not intend, nor does it wish to investigate or exhume a very large number of grave sites. It is only going to go to those grave sites where there is a clear connection between the exhumation and an investigation that it has ongoing with respect to a particular incident and particular individuals under investigation.

Mr. HAMILTON. As those investigations are taking place, and the graves are being exhumed and the witnesses are being identified, will IFOR troops stand guard?

Mr. SHATTUCK. IFOR will no doubt conduct patrols, very extensive patrols.

Mr. HAMILTON. Patrols don't mean anything. You have a big area here.

Mr. SHATTUCK. I understand.

Mr. HAMILTON. Are there going to be people guarding the investigators?

Mr. SHATTUCK. In conjunction with the IFOR patrolling, there will be individuals posted at those few grave sites which are subject to exhumation. And they could well be members of the international police task force working in conjunction with local authorities and receiving the backup of IFOR.

Mr. HAMILTON. IFOR will not be guarding the sites?

Mr. SHATTUCK. IFOR, at this point, is not going to be guarding the sites. But, of course, these are—as I said before, Mr. Hamilton——

Mr. HAMILTON. Is this international police force in place?

Mr. SHATTUCK. No. It is going into place. It will be deployed in the immediate months coming up. And I think the important point here is that IFOR and the War Crimes Tribunal, as the Goldstone/Smith statement indicates, are going to be discussing the details of the modalities of assuring that Tribunal teams can carry out investigations and activities at mass grave sites.

Mr. HAMILTON. Does this police force have the mandate or authority to guard these sites under the Dayton Accords?

Mr. SHATTUCK. It has the authority to work with local authorities and to assure that the local authorities promote human rights in their work and the local authorities are obligated under the Dayton Accords to fully cooperate with the investigation and prosecution of war crimes.

Mr. HAMILTON. Well, Mr. Shattuck, I just want to say to you that I know it is not easy to testify in this particular area, but I am not at all satisfied with the testimony you have given to assure me, at least, that there is going to be adequate security for these investigators.

And I am not the least bit impressed by this area of security promise of Admiral Smith. I am not criticizing him. I am sure he is speaking with regard to what his mandate is with regard to IFOR. And he is probably quite correct in limiting himself to that extent, but as I understand what needs to be done at these grave sites, if you are going to have the kind of careful investigation that

is necessary to bring people to justice, we are a long way, it seems to me, from providing sufficient security. That is something I would like to pursue with you in the days ahead as we proceed here.

Mr. SHATTUCK. Well, thank you, Mr. Hamilton. I think I can assure you, and I would be glad to go into much greater detail, that the United States is committed, as is NATO, to assuring that the War Crimes Tribunal can conduct and get the security needed to conduct the investigations that it deems appropriate within its mission, including at these grave sites. And I think the details of that are in discussion between the Tribunal and IFOR. But the commitment has been made and Justice Goldstone is satisfied with it.

The CHAIRMAN. Thank you, Mr. Hamilton.

Mr. Rohrabacher.

Mr. ROHRABACHER. Yes. Before I begin my questioning, let me just state that those of us who were opposed to the Bosnian mission to begin with wish this Administration and wish our troops every success and hope that there will indeed be a difference made by our presence and that when we leave that this mess won't start all over again and that this commitment that we made will actually serve some useful purpose.

Mr. Shattuck, you were talking about mass graves. Could you give us a little detail about how many people you think were murdered?

Mr. SHATTUCK. Mr. Rohrabacher, I don't think we can make any real estimates at this point. We know that approximately 250,000 people have lost their lives in this conflict, no doubt many of them in armed conflict situations, where they may even be buried in mass graves. The mass grave that I visited could hold up to 2,000 people, and that was the estimate of the number of people who were summarily executed in the warehouse site near the mass grave.

Mr. ROHRABACHER. So it would appear, at least, thousands if not tens of thousands of people were basically executed. This wasn't a battle situation? This was a genocide.

Mr. SHATTUCK. Right. Evidence of massive human rights abuse, crimes against humanity and genocide under investigation by the International War Crimes Tribunal.

Mr. ROHRABACHER. This goes back—these mass graves go back several years, don't they?

Mr. SHATTUCK. Right.

Mr. ROHRABACHER. We are talking about 3 years, maybe even 4 years?

Mr. SHATTUCK. Yes.

Mr. ROHRABACHER. These people who were being herded like cattle. I saw Steven Spielberg's film about the holocaust, and what I came away with was you had all of these people who were herded around like cattle, and I asked myself why was that permitted to happen? Why were large numbers of human beings, many of them who were male, people who could have fought and defended themselves, not just women and children who were helpless, why did that happen? And I said to myself, I will never vote for gun control legislation in the United States that takes away guns from innocent people because those people couldn't defend themselves. That's why they were being herded around.

The people that we are talking about who have been herded around in Bosnia and that part of the world, they were basically unable to defend themselves, weren't they? They were against a heavily armed enemy who had tanks and heavy artillery and they had perhaps a few rifles to defend themselves. Isn't that the base reason that this happened, was that one group was so overwhelmingly superior in their fire power that they could herd people around?

Mr. SHATTUCK. That may have been one reason, Mr. Rohrabacher. I think a more fundamental reason was that there were individuals engaged in major and in some cases significantly pre-planned criminal conduct which involved identifying civilians, and then on the basis of their ethnicity forcing them out of their homes, or others——

Mr. ROHRABACHER. If those people you are talking about with this plan to commit genocide had not had overwhelming firepower, they wouldn't have been able to accomplish that, would they?

Mr. SHATTUCK. Well, another aspect of this, I was going to go on, and as others have said in this Administration, was the clear failure of collective security in the mission that was established several years before by the United Nations. A mission that had rules of engagement that were not sufficient to allow.

Mr. ROHRABACHER. In other words, somebody else from the outside could have come in and provided an offset to the superior firepower of those committing the genocide.

And if the Chair will just indulge me a few more moments on this point, yes, that is one thing that could have happened. But isn't it also true that the American policy at that time and for the last 3 years has basically been an arms embargo against those people who are being herded to sites where they were murdered by these people? Wasn't it our policy that those people not have the arms to defend themselves? Don't we in some way share some of that, or at least some of those who weren't opposing that policy share the blame for this genocide that took place?

Mr. SHATTUCK. Well, Mr. Rohrabacher, I think the way in which the crisis of collective security and the inability of people to defend themselves was identified as a major problem by this Administration, and by the United States with the assistance of the Congress, and then the initiation of a major campaign to turn back this aggression, certainly was far later than all of us would have liked. But, I think we all were well aware of many areas of resistance to turning that policy around.

I think that is something that the United States, in its leadership, can be very proud of. And I think to the extent that justice, peace and ultimate reconciliation can come about in Bosnia, it is going to come about as a result of American leadership, and I certainly believe the support of the Congress as well.

Mr. ROHRABACHER. This Administration—one last point. Not just this Administration—there are those of us who are upset with the fact that we have ended up having to send thousands of troops there and the fact that so much genocide took place. We are not upset with just this Administration. This is American policy. This happened before this Administration, when there was a Republican administration, and just for the record, hopefully in this world, it

won't be necessary for outside forces to come in and especially American forces to come in to prevent this type of ethnic genocide from taking place.

Hopefully, people will be permitted to defend themselves and thus deter their enemies from committing these acts of violence. This was a total miscalculation by the American foreign policy elite and the Western democracies foreign policy elite in the strategy that failed and resulted in these mass graves. And in the same way, I think that people can say it was a mistake when Hitler was on the rise that the Western powers didn't confront him earlier on as well.

So I wish you luck, and I know that you are a very sincere person, and I believe this Administration is sincere in trying to stop the problem. I am sorry that the policies were not in place that could have prevented us or prevented the genocide and not put us in a situation of having to send tens of thousands of Americans overseas and putting their lives in jeopardy.

The CHAIRMAN. Thank you, Mr. Rohrabacher.

Mr. Berman.

Mr. BERMAN. I am not sure I followed the logic. I thought we could debate it, but one of the purposes of our present deployment in the creation of IFOR is to separate the forces and to stop the genocide.

Mr. ROHRABACHER. It is just a little too late. That was just my point.

Mr. BERMAN. There are people alive who are still in this area of the world.

I want to get back to Mr. Hamilton's questions a little bit. This international police force is not yet deployed. When do we expect it to be deployed?

Mr. SHATTUCK. Well, its deployment is ongoing. It should be fully deployed during the course of this spring. Obviously, there are issues such as financing and training. But my colleague, Assistant Secretary Bob Gelbard, has spent the last 2 months recruiting this force, along with other members of the contact group. He has traveled extensively throughout Europe and elsewhere. And I think he is near the point of completion and identification of approximately 2,000 individuals who will be part of this international police training force.

Mr. BERMAN. And it is this international police force that will provide security for the investigators and the people involved in the exhumation and checking of the grave sites?

Mr. SHATTUCK. What—no. Let me say, again, what the elements would be. The elements would be aggressive and extensive coverage of the immediate area around grave sites that have been identified. This is consistent with what Admiral Smith and Justice Goldstone have said in their joint statement. IFOR would be a major component of the security.

Mr. BERMAN. Oh, providing a secure environment?

Mr. SHATTUCK. Right. Well, to provide security for Tribunal teams carrying out investigations and activities at mass grave sites. I want to make sure I stay with precisely what they have agreed to do.

Mr. BERMAN. IFOR——

Mr. SHATTUCK. The second element of that will have to be the same kind of aggressive diplomatic effort with the consequences to follow if these actions are not taken, to assure that local authorities provide access to these areas and that the international police force is allowed to work with local authorities when particular grave sites are under exhumation.

Mr. BERMAN. Is it fair to say you are on purpose leaving this a little fuzzy because either there is a desire not to advertise or it is not yet clear exactly how this is going to work?

Mr. SHATTUCK. Well, I think it is very important not to advertise the details of how graves are going to be exhumed. That is something that Justice Goldstone has impressed upon everyone. He does not want to have public discussion about it.

It is also certainly true that the process of deploying the international police training force and the extension of the IFOR patrolling into these areas where graves are going to be exhumed, the few that the War Crimes Tribunal identifies, that is just beginning. And I am not able to tell you with great precision the kinds of specific rules of security provision that are going to be worked out between IFOR and the Tribunal, but as this extensive patrolling and deployment of the international police proceeds, I am very confident that they are going to be worked out.

Mr. BERMAN. Apparently, we are also involved in aerial surveillance of the grave sites. Do we have confidence that that surveillance, I guess, particularly in Ljubija, will allow us to know if the graves are being tampered with?

Mr. SHATTUCK. Yes. I think the intensive focus on the collection of information in these areas is going to be very helpful, not only in determining exactly the kind of security needed, but in assuring that tampering is not going on.

Mr. BERMAN. If we find that tampering is going on, what is IFOR prepared to do about it?

Mr. SHATTUCK. Well, first of all, there are criminal consequences for tampering, as the parties know. And those who are engaged in tampering will be subject to investigation, prosecution and perhaps an indictment by the War Crimes Tribunal.

Mr. BERMAN. But is there——

Mr. SHATTUCK. And certainly IFOR, itself, in its area of patrolling, when it comes to particular sites, would be in a position to address the issue.

Mr. BERMAN. So it would be appropriate if we have information about tampering for IFOR patrols to go to that area and seek to stop it?

Mr. SHATTUCK. Yes.

Mr. HAMILTON. Would the gentleman yield?

Mr. BERMAN. Yes.

Mr. HAMILTON. Mr. Shattuck, your emphasis on this IPTF causes me some concern.

First of all, you are talking about a force of 1,700 or 2,000 for the entire country of Bosnia. That is a huge area, and a very small number of people.

Second, in looking at the powers given to the IPTF under the Dayton Agreement, those powers are identified as monitoring, advising, training, and assessing threats, but nothing in those powers

indicates to me that they can go in there and secure an area; that they have the power to do that under the Dayton Accords.

Mr. SHATTUCK. Mr. Hamilton, they do not only have the power to do that under the Accords, but I think their central mission is to work with local authorities.

Mr. HAMILTON. Who are the local authorities?

Mr. SHATTUCK. These are the local police whom they are going to be developing. This is a police force that will develop capacity of the local police to keep the peace. This is not an international force that is going to come in and itself keep the peace. That is a very important mission that they have under Dayton.

Mr. HAMILTON. OK. I thank the gentleman for yielding.

The CHAIRMAN. The gentleman's time has expired.

Mr. Bereuter—I am going to ask our colleagues, since we are going to have to go to the floor for the Chirac joint session, if we could limit our questions so that everyone might have an opportunity to inquire.

Mr. Bereuter.

Mr. BEREUTER. Thank you, Mr. Chairman.

Mr. Secretary, thank you for your sobering, but not unsurprising, testimony here today.

I am very concerned that IFOR will have continuous and unrelenting increasing pressure to take on missions that are not its responsibility and that it will be thought of increasingly as an international police force. It will come from the media. It will come from the American public when we have problems of refugees returning, and you can begin to see it taking place here today from some of the comments and questions of Members of Congress.

I am quite supportive of Admiral Smith and others who want to stick to the IFOR mission. IFOR is not an international police force. If we are to avoid mission creep and the disasters to our forces that took place in Somalia, and if we are to avoid a failure of the mission itself, the Administration cannot be pushed by Congress or anyone else to take on responsibilities that are in excess of the Dayton Accords, for you have one person here who is going to be on your side if you hold the line and if you listen to Admiral Smith.

I have two very brief questions. First, how can the suspects be arrested given the opposition from NATO and the Pentagon to having the soldiers in Bosnia make the request? Which opposition, I support.

Second, is it the international police task force working with local police that we have that responsibility? Am I correct in that, Mr. Secretary?

Mr. SHATTUCK. Yes. I won't impinge on your time, but I want to give you a full enough answer so that there is a good record on this point. The arrest of indicted individuals is a combination of responsibilities for the Tribunal, the States, the parties, and the international community. Plus, IFOR has assistance to offer.

The method in which this proceeds is that the Tribunal issues an indictment. An arrest warrant is passed to a State. The State is under an obligation to arrest. To the extent that IFOR encounters someone under indictment, they will assist within its mission

guidelines in detaining and then turning over for prosecution individuals who are under indictment.

Finally, two very important points need to be made here. Diplomatic pressure is ongoing and very aggressive, and the focus of the upcoming mission this weekend. Economic levers will be available to secure compliance. In Brussels and in London, the economic reconstruction conference, both of them, made clear that full cooperation with the International War Crimes Tribunals and the prosecution and investigation of war crimes will be a condition for receiving that kind of assistance.

Finally, in the U.N. Security Council resolution, lifting sanctions or suspending sanctions and then ultimately lifting, there is a provision for automatic reimposition of sanctions in the event that there is significant and continuing violation of any provision of Dayton and the War Crimes Tribunal is specifically identified.

Mr. BEREUTER. Thank you, Mr. Secretary. I would just say in closing, in my time here, that I believe although it's terribly sensitive and difficult, that the United States needs to push for an examination of the failures that took place in the United Nations and UNPROFOR which contributed to the extraordinary atrocities that took place.

We all knew what was happening too late here to do anything about it. But I think we need to examine those and people need to be held accountable for those failures in policies in the United States and the troops that were to implement them through UNPROFOR.

Thank you, Mr. Chairman.

The CHAIRMAN. Again, thank you, Mr. Bereuter. I am going to urge our members to try to limit their questions.

Mr. Hastings.

Mr. HASTINGS. Thank you very much, Mr. Chairman.

Mr. Secretary, let me thank you for your rather extraordinary efforts, along with others, in the Dayton Accords, as well as your continuing efforts in Bosnia. I have the same concern as expressed by my colleagues, and I would like to ask, is there any preparation for IFOR or any hands-off organization or structure to continue the efforts that are being put forward at this time?

I mean, I want to be realistic. I do not believe that at the end of a year, with the growing refugee problems that are likely to exist at that time, the property rights concerns that are likely to develop en masse and with all of the assessment of any legal or judicial structure in an effort to put forward the rule of law, I find it almost impossible to believe that we are going to be able to have in place all of the mechanisms or mechanae that will be necessary. So what, if anything, is being done to think 2 years out or 5 years out? And if we fail to do that, I think it will be something that will haunt us for some time to come.

Mr. SHATTUCK. Well, this, Mr. Hastings, is the heart of the civilian aspect of Dayton and the Dayton implementation process. We are building institutions to last. These are international institutions with strong local roots in Bosnia, and I speak of the International War Crimes Tribunal which, of course, will not complete its work within the year.

I speak of the Human Rights Commission, the chamber and the ombudsman, which are unique institutions that have never been developed in a peace process with the same degree of precision and mission that they have in adjudicating these cases.

You know, I speak of the other aspects of the civilian implementation process which will go far beyond the year. Clearly, we need to have a year period to grow them, to begin to plant the seeds and the soil so that they can come up. And in the coming period after that, the commitment of the United States, the contact group, all the parties who were at Dayton to follow through, is very serious.

Mr. HASTINGS. Let me, my final question in light of time, ask you what best can we do here to help that effort? For example, we all know that the War Crimes Tribunal moves glacially, and at the same time you need to have in place some kind of legal and judicial structure that is probably virtually nonexistent at this time. What can we do that would be the best thing as policymakers to assist in expediting that process?

Mr. SHATTUCK. Well, I think the most important thing you can do is to go to Bosnia. I think missions from the Congress are extremely important at this time, both to show the seriousness with which the United States takes this effort and to learn firsthand what these challenges are.

At that point, of course, you will be able to work very closely with the Administration, as you are now, in developing some of these longer-term civil society rule of law justice system police operations which will have to go far beyond the year.

Mr. HASTINGS. What is the status of the $200 million that is needed to be sprung loose? Where are we on that?

Mr. SHATTUCK. Well, it is pending. I don't have details for you. I am sure my colleagues could provide you with that. But we very strongly urge the Congress to assist us in providing it so we can go ahead with this.

The CHAIRMAN. Thank you, Mr. Hastings.

Mr. HASTINGS. I thank you.

The CHAIRMAN. I regret I have to go to the floor for the joint session as part of the escort committee. I am going to ask Mr. Smith if he would conduct the remainder of the hearing.

Mr. Smith.

Mr. SHATTUCK. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Shattuck, we wish you well in your endeavors. We thank you for being here and you certainly are an important part of what we are trying to do in Bosnia.

Mr. SHATTUCK. Thank you very much.

Mr. HASTINGS. Mr. Chairman, tell them I ain't coming.

Mr. SMITH. (Presiding.) Mr. Secretary, thank you for your testimony. Just watching you the other night on Nightline I could see how moved you were by what you had witnessed firsthand, and I want to congratulate you on your tenacity in pursuing this issue, and you do have a lot of friends on both sides of the aisle who want to see this come to an honorable conclusion and the War Crimes Tribunal aggressively prosecute those who have made such heinous acts against people.

I do have a statement, without objection, that I will make a part of the record.

[The prepared statement of Mr. Smith appears in the appendix.]

Mr. SMITH. I would also like to submit a letter that had been written by Senator D'Amato and dated December 8th, at which time we asked Secretary Perry a number of pertinent questions relevant to the Dayton Accords. We still have not heard back from him and I hope we hear back soon.

[The information referred to appears in the appendix.]

Mr. SMITH. One of those questions, which I think you touched on earlier, was the whole issue of the kind of authority that IFOR would truly have and how it would manifest itself on the ground. We had gotten, as you know, from the State Department a statement that said IFOR has the authority to arrest any indicted war criminals it encounters or who interfered with its mission, but it would not try to track them down. And then we did a review of the text of the Dayton Agreement, its annexes and appendices and all the accompanying side letters, and we failed to locate anywhere in those texts a provision or provisions conferring upon IFOR the authority to arrest any indicted war criminals that it encounters.

So we were somewhat perplexed about where was this found—again, how is this being carried out on the ground?

I will ask you a couple of questions, but if you could answer that.

Mr. SHATTUCK. Yes, I do have an answer for that.

Mr. SMITH. Good. I would appreciate that. And if you would hold on for just 1 second.

Mr. SHATTUCK. Oh, sure. Do you want me to hold on?

Mr. SMITH. You can tell me what it is, and then I will go to my colleagues and ask some remaining questions.

Last December we had a Helsinki Commission hearing on mass graves and other atrocities. One of our witnesses was a very impressive forensic pathologist from Albany, Dr. Barbara Wolf. Her testimony was very compelling, about examining grave sites in Croatia and Bosnia under the auspices of AmeriCares, which led me to wonder whether we were adequately putting our own country's forensic expertise at the disposal of those who will investigate what happened in the field outside of Srebrenica.

Have you included or are you willing to include a forensic pathologist on our team and are we truly adequately accessing that expertise that is out there in this country?

Mr. SHATTUCK. Thank you. Let me answer the first question and give you a technical, but I think the correct answer, which is that there are two sources of that authority that was identified in the State Department letter that you made reference to.

First, the Dayton Agreements, Article 6, Subsection 4, is where the authority and mission of IFOR is laid out in detail. It says the parties understand and agree that further directives from the NAC, that is the North Atlantic Council, may establish additional duties and responsibilities for the IFOR implementing this annex.

And then the North Atlantic Council, in its meetings in December, set forth further directives to implement the general thrust and all the details of the mission of IFOR. And that includes the role of IFOR in detaining persons whom it encounters who are indicted war criminals.

With respect to your second question, we have been working very closely with a number of forensic experts, including physicians for

human rights, with whom I met just the other day. They are going to be very actively engaged with the War Crimes Tribunal in the exhumation of these grave sites, and we hope very much to provide U.S. assistance directly to the Tribunal, earmarked for forensic work in connection with grave site exhumation.

Mr. SMITH. One other question, and then I will yield to my friend, Mr. Menendez, and then we will begin a second round if members would like to stay. And Mr. Frazer.

I think, as you know, I was one of those who was in Vukovar at the beginning of the war when it was surrounded and was under siege and people were dying by the day, and, of course, that was an absolutely horrific outcome when it did finally fall and the number of people who died and seemingly were executed.

It seems that UNPROFOR at least did an adequate job in protecting the mass graves or at least that mass grave in Vukovar. Can you tell us how IFOR is doing with regards to protecting these mass graves? There is a concern that the evidence will be destroyed or in some way made more questionable in terms of whether or not it is useful in a prosecution.

Mr. SHATTUCK. Yes. Mr. Chairman, incidentally, I have also gone to the mass grave at Vukovar and of Char, which, just as an aside, has been and is today guarded by Russian troops, U.N. troops who remain there. It will be exhumed.

I have no doubt that, based upon the agreement Admiral Smith and Justice Goldstone have reached, there will be security for Tribunal teams carrying out investigations and other activities at mass grave sites. So I think the precise modalities of that are going to be discussed between Smith and Goldstone, and we are under injunction by both of them to avoid public discussion of the details related to future Tribunal requests.

But, they have been very explicit that they are covering five areas in these modalities of working between IFOR and the War Crimes Tribunal. One of those is security. Second is access to areas and sites. Third is transportation. A fourth is detention, and a fifth is information exchange. So that IFOR and the Tribunal will, indeed, be very much on the same wave length with respect to precise locations of sites and where this kind of work is going to be done and the security that is needed.

Mr. SMITH. Mr. Secretary, I do take your point on the—you mentioned a moment ago about the need for congressional delegations to go to Bosnia and we—the Helsinki Commission, which I think you know I chair, we are right now awaiting word from the Speaker as to whether or not we will go in February. We have yet to set the date, but we already have a proposed itinerary because I think you are right. We need to keep maximum encouragement and/or pressure on all involved so that the right things happen over there. And I want to congratulate you on your vigilance with regard to this issue.

The gentleman from the Virgin Islands, Mr. Frazer.

Mr. FRAZER. Thank you, Mr. Chairman.

Mr. Ambassador, I only have one question. It is my understanding that Judge Goldstone's 2-year contract is about to expire this summer. It has been reported in such papers as the New York

Times that if he does come back, if he is not encouraged to remain, it would have some effect on the Tribunal.

Could you tell me from your vantage point, if he is not encouraged to remain, what effect would his departure have on the effectiveness of the Tribunal to date?

Mr. SHATTUCK. Well, first, Mr. Frazer, Justice Goldstone has done and is doing an outstanding job. He has, probably more than any other person, been responsible for making this Tribunal such an important element of peace in Bosnia, as well as in Rwanda, I should say, where I have also spent a good deal of time, as has he.

This Tribunal is an institution created by the Security Council and very strongly backed by the United States. We will guarantee, to the best of our diplomatic and leadership abilities in this area, that the Tribunal will remain under the outstanding leadership of a Chief Prosecutor. If Justice Goldstone feels that he must depart, we, of course, would be very disappointed with that. But we will commit ourselves to assure that there is another prosecutor who is equally outstanding.

But there are no firm reports. There is speculation and, of course he has an outstanding set of responsibilities in South Africa; I think he is torn between the two. But I can't speculate as to what his own ultimate decision is going to be. Suffice it to say that the United States not only totally backs him, but would be very eager to see him stay in office.

Mr. FRAZER. Thank you.

Mr. SMITH. Mr. Menendez.

Mr. MENENDEZ. Thank you, Mr. Chairman.

Mr. Secretary, I have read your testimony. I was a little late, but I read all of your testimony. I just want to focus on the basic concept of today's hearing, which is the prospects for peace with justice in Bosnia. And my questions, let me throw them out to you so that you can answer them in toto. How do you obtain justice if, from your own testimony, the obligation to cooperate with the Tribunal in terms of suspects are those suspects in detention? What about those suspects who are not in detention? And we have already heard of IFOR's position that it is not—and there are those who wish it not to pursue those suspects—unless it is openly right there before them.

So if IFOR is not going to pursue them, and if the suspect is not in detention, of the parties who signed the Dayton Agreement, and the wording, I don't see where they have an active obligation to go seek them out. First, how do you bring suspects to justice?

Second, with reference to the sanctions that you referred to in your testimony. It refers to the commander of IFOR, who we have heard is basically just going to do somewhat of surveillance, being one of two parties to, in fact, suggest that sanctions should be reimposed if they are failing significantly. So that really leaves, to me, the high representative as the one who could trigger this mechanism more so on this particular issue.

And last, and I think most importantly, in pursuing justice to simply pursue an individual who took orders certainly is something we want to pursue, a soldier who fired a weapon, the Nuremberg defense, so to speak. But how aggressively are we committed on the investigations on the possible involvement of Presidents Milosevic

and Tudjman, how committed are we to pursuing, if, in fact, some allegations that have been raised, such as by the New York Times, now that they have signed the Dayton Agreements, and they are so important to help implement and keep the peace, how strongly are we committed and in what real terms are we committed to pursue those allegations in the context of realizing justice, therefore realizing peace in Bosnia?

Mr. SHATTUCK. Mr. Menendez, the questions that you ask are very much at the heart of this issue of justice and peace. Let me just say at the outset that, as the President so eloquently articulated in his speech in Connecticut in September, you cannot ultimately achieve a lasting peace without giving people a sense that the truth is being pursued, that what occurred is not being in any way covered up, and that those who are responsible are being identified and prosecuted to the extent of the law. That is what the Tribunal is all about, and that is in order to lift this otherwise cloud of collective guilt and sense of endless cycles of retribution that have so gripped this terrible situation for too long.

So we regard the Tribunal as very, very important, as well as the justice machinery that is being created in Bosnia by other international institutions.

First, as to arrests, as I have said earlier in my testimony here this morning, there are technical and leverage aspects of this. First, the technical aspects. All the parties under Dayton are obligated to cooperate fully with the investigation and prosecution of war crimes, and under the Bosnian constitution are obligated to follow the orders of the International War Crimes Tribunal, obviously including arrest orders. The international force is authorized to detain any indicted war criminal whom it encounters, and that is a very important part of its mission. And it takes it very seriously.

The nontechnical aspects of this, which go to your second question, and that is——

Mr. MENENDEZ. Let me just stop you there. You can only account for someone if they come to you or if you go to them. So it is really insignificant. Short of somebody being brought to IFOR, who is a suspect, or someone who has been indicted, IFOR, if we follow what we hear today, is probably unlikely to encounter anyone.

Mr. SHATTUCK. Well, I think I am going to abide by Justice Goldstone's concern that we avoid public discussion of the precise modalities that are going to be put in place that he and Admiral Smith may be discussing. But I will say that Bosnia is, indeed, a small country, but I think it is important to recognize that this authority to detain those whom IFOR encounters is very clear. It has been spelled out in the North Atlantic Council implementing provisions from the Dayton Agreement.

But the most important issue here goes to your second question, which is what about the sanctions and leverage to get the parties to comply and to fully cooperate with the Tribunal by, among other things, turning over those who have been indicted? And here, it is not only the economic sanctions that have been lifted and could be reimposed in the event that there is significant noncompliance, which either the high representative or the IFOR commander can indicate, but it is also the clear determination by the contact group

and all contributing nations in Brussels and in London to condition economic reconstruction assistance over time and on cooperation specifically with the War Crimes Tribunal.

In addition to that, it is very clear that access to international financial institutions, to membership in international organizations, and ultimately reintegration with Europe and the rest of the world, is a central condition on the War Crimes Tribunal participation.

There are important levers here, in addition to U.N. sanctions. And this is why aggressive diplomacy is so important in this area and why the United States is spending so much time talking to the parties, but not just talking, also making clear what consequences could be in the event that there is not compliance.

Finally, on your third question, as the President or as Secretary Christopher and others have made frequently clear, we are committed to fully supporting the War Crimes Tribunal in its pursuit of evidence wherever it may lead. The standards of evidence of the Tribunal for prosecution are set by the Tribunal, and it is up to the Tribunal to determine when a standard has been met in terms of an indictment. But there are no limits, from our point of view, to what the Tribunal should be doing.

It should pursue truth and justice wherever it may lead, and it has the integrity to do so. I think the fact that it has proceeded to indict the top leadership of the Bosnian-Serb entity is an example of its serious effort to go in the direction wherever the evidence may lead.

Mr. MENENDEZ. Thank you.

Mr. SMITH. Mr. Payne.

Mr. PAYNE. Thank you very much.

First of all, let me commend you for the outstanding work that you have been doing, and I followed you closely on CNN when you originally went there, and I think you are doing an outstanding job.

I also have a concern about Justice Goldstone. As you know, his outstanding reputation of integrity when he had the Goldstone Commission in South Africa, even under the F.W. de Klerk administration, and where he exposed the wrongs at that time, indicated that he is a person of strong convictions, and I would hope that he could stay on unless there are, as you know, similar inquiries happening in South Africa and perhaps that may be where he is going.

I just have a question in regard to the refugees and displaced people. It is indicated that about half of the Bosnian people are refugees, or in other words, are displaced. I know that you run into problems. For example, I know in Rwanda, where the Hutus pushed the Tutsis out in the 1960's and now the Tutsis are back and want their old homes back. And then you have 2 million Hutus still in Zaire wondering whether to come back or not because their homes will be taken over by the previous owners. So it gets complicated.

So I wonder what is the situation in Bosnia? First of all, do Ms. Ogato and the Refugee Commission have enough resources in order to work toward the reintegration? And, second, what happens in areas where the local authorities refuse to allow the refugees to come back? And is there a way to kind of break through that whole

situation? And is there any sort of a timeframe for the reintegration of the returnees back to their original sites?

Mr. SHATTUCK. Thank you, Mr. Payne, for your kind comments. And on the refugee issue, I will give you a brief answer, but I know my colleague, Phyllis Oakley, who is, I believe, going to be appearing before you shortly, will be able to give you a better, more extensive answer.

First, we are, I think, fortunate to have perhaps the outstanding performing unit within the United Nations. The UNHCR, headed by Mrs. Ogato, is in charge of this enormous refugee problem in Bosnia. And I think she is in a position to be able to address it as effectively as it possibly can be.

Second, there are a number of institutions that have been created under the Dayton Accords which are now being implemented that will help to adjudicate and deal with these problems that you identify of people coming back and finding individuals in their homes. The most important one is one that is specifically intended to address this issue, and that is the Commission for Displaced Persons and Refugees. It will have, among other responsibilities, the authority to decide claims for restitution of real property, or alternatively compensation for real property. And this will be, in many ways, one of the core institutions ongoing in the peace process as it unfolds.

In addition, the Human Rights Commission, the Ombudsman, and the Human Rights Chamber, which is a new court created by Dayton with the members appointed by the Council of Europe or the Organization for the Security Cooperation in Europe, will have a very important mission of deciding local human rights claims and cases on an ongoing basis. They will not look back so much at past activities but provide relief for problems as they occur. And I have no doubt that they will be playing a supportive role not only for the UNHCR, but also for the Commission on Displaced Persons.

Mr. PAYNE. Thank you very much.

Just, if I may, one last thing. In your remarks you talked about four broad goals to end the gross violations to promote institutions and establish individual accountability, release of prisoners and the fourth one, though, was to establish institutional structures that will help ensure a peaceful and secure environment in which the people in war-torn Bosnia can enjoy their human rights. What type of institutional structure, just quickly, or institutions are you looking at?

Mr. SHATTUCK. Well, I think the most important institutions are the new judicial entities that are to address human rights. There is the Constitutional Court of Bosnia, three of whose members will be appointed by the Council of Europe. It will be playing a very central role in deciding major cases involving human rights, insofar as there is a responsibility for the implementation of human rights treaties. That is specifically identified in the Constitution as a mandate of the Court.

Then there is the Human Rights Commission, with its special chamber, which is another special human rights court to deal with specific cases that come up at the local level, and the Ombudsman who herself will have, no doubt, a staff to receive complaints around the country.

And, finally, I think we are going to have to look at support for local nongovernmental institutions, which are the essence of civil society, to encourage ecumenical interreligious coordination. There are some very outstanding interreligious groups that have worked, believe it or not, all through this period, as this war has gone forward in Bosnia. They need to be nurtured and helped.

Then, finally, the Bosnian institutions of justice—the court systems, apart from human rights, the ones that have to deal with day-to-day judicial issues—these are all going to need our and the world's ongoing attention.

But I am confident that what the Dayton Accords do is to put at their center a number of very important new institutions who will go well beyond the 1 year of deployment. They have a permanent life in that respect.

Mr. PAYNE. Thank you.

Mr. SMITH. Thank you very much, Mr. Payne, for your questions.

I have some additional questions. If any of my colleagues have any additional questions, I would ask that they pose them. I would also ask that some of the submissions that we will give to you at the end of this hearing be answered as promptly as possible.

Mr. Secretary, I would like to underscore a concern raised by Mr. Menendez, and I have raised it in closed hearings, I have raised it in open hearings, and I think you would agree with me that it is a very, very important issue.

You know, there are many of us who feel that there is at least a tremendous amount of circumstantial evidence that implicates the involvement of President Milosevic in war crimes. The Bosnian and Krajina Serb militants probably could not have orchestrated their aggression nor sustained it for so many years without his help. The fact that he seemingly almost single-handedly stopped the conflict almost confirmed his earlier power over the Serbs who committed the atrocities.

I know it is for the International Tribunal to deal with this and not the U.S. Government, to look at the issue and the evidence and to issue indictments, but my question is: Is the U.S. Government in any way dissuading a look at the evidence and issuing indictments with regard to Milosevic, trying to impede that in any way? And would the U.S. Government view such an indictment in the service of justice as potentially harmful to the peace process?

Mr. SHATTUCK. Again, Mr. Chairman, the United States has made clear repeatedly, and I do so again here today, that we support this Tribunal's pursuit of truth wherever it may lead, and evidence wherever it may exist. I think our record on that is very clear.

There are no agreements, or any other ways in which discussions have taken place concerning any individuals and their relationship to this evidence-gathering process that the Tribunal is engaged in, whether it be President Milosevic or anyone else. That is our policy, and that will remain our policy.

Mr. SMITH. I thank you for that reassurance.

Mr. Secretary, you mentioned in your testimony in the area outside of Banja Luka, in Serb-controlled Bosnia, where there is a mine, that we suspect that there is evidence of there having been

mass atrocities and disposal of bodies. Have we gotten access to that? And is it now, that mine, is it safeguarded?

Mr. SHATTUCK. That mine is one of the sectors of IFOR and the area is now being very aggressively patrolled by IFOR. I personally have not gotten access there, but we are going to assure that International War Crimes Tribunal investigators will be able to get there.

Mr. SMITH. Mr. Secretary, what knowledge do we have of mass graves created by either the Bosnians or the Croats and is there not evidence of such graves, albeit on a smaller scale, in Croatia subsequent to the retaking of the occupied Krajina territories in August of last year?

Mr. SHATTUCK. Well, as I have stated here this morning and earlier, we are looking at evidence of human rights abuse wherever it may have occurred.

I have made several trips to the Krajina region and have pressed the Croatian government at the highest levels for accountability on the killings of several hundred elderly Serbs who were left behind, and the fate of the hundreds of thousands of Serb civilians who are actually Croatian citizens who were forced out of the Krajina region.

We have made very clear, and will do so again, that any effort to confiscate their property or to make it impossible for them to reclaim their property would be inconsistent with basic concepts of international law and with the Dayton Agreement. That is a position that I have articulated, and Ambassador Galbraith and will be doing so again this weekend.

So certainly the issue of human rights abuse in and by Croatia has been and will continue to be a subject of intense focus by the United States.

Mr. SMITH. And if my recall of history is correct, when President Eisenhower, then General Eisenhower, was asked about what to do with the concentration camps, he wanted to keep them as a remembrance so never again would such a thing happen. It also had the ability to educate many innocent Germans about the atrocities and the level of depravity that the Nazi regime had sunk to. And many of the Serbs who are innocent find it very hard to accept that these atrocities have occurred and at the hands of Serbs—Bosnian Serbs and others. What is being done to educate those people, to bring them out of denial into an understanding and, hopefully, an abhorrence of what has gone on?

Mr. SHATTUCK. Well, that is a very important area, and I think in the coming months the active work to support local civilian organizations in the Bosnian Serb area, as well as other parts of Bosnia, is going to be really essential.

I made the first trip that a U.S. official was able to make to Banja Luka back in November, and I was able to meet with Bishop Komaretya, the mayor, and others in Banja Luka. I stressed the importance of developing international dialog as we entered into the peace process.

We have also done a great deal to foster better relations among the mayors of local authorities—Croat, Serb, Muslim—in different parts of central Bosnia. Bugojno Yatya, Travnik are all places I have visited where we have tried to put people together.

Certainly, the efforts to promote interreligious dialog is going to be very, very central to this. And I agree with you that perhaps General Eisenhower's approach toward these terrible monuments of genocide and human rights abuse should be preserved as such. I here speak of the warehouse that I went into at Kravitsa. I have seen no more stark monument to human rights catastrophe than that, and it should be preserved.

Mr. SMITH. Mr. Secretary, last December I made a statement on the floor criticizing Croatia because of the burning, looting and killing of elderly Serbs following the retaking of Krajina in August as well as Zagreb's unwillingness to surrender the Bosnian Croat general indicted by the Tribunal. I wonder if you could tell us what your understanding is of Croatia's willingness to cooperate with the Tribunal?

Mr. SHATTUCK. Well, Croatia has stated that it is willing to cooperate. It has allowed Tribunal investigators to come to Croatia. It has permitted the exhumation of a mass grave that apparently holds Serb remains and is evidence of Croat abuse.

On the other hand, we will make very clear to the Croatian authorities this weekend that we are very disappointed by their failure so far to turn over the six indicted Bosnian Croats who have been indicted by the Tribunal. We are going to insist on full cooperation with the Tribunal. Cooperation has begun, but it needs to go further.

Mr. SMITH. Let me just ask one final question. The State Department has said an outer wall of sanctions will remain on Serbia and Montenegro based on concerns about Kosova in cooperation with the War Crimes Tribunal. What are these sanctions and what are the conditions for lifting them and will the lack of cooperation with the Tribunal on the part of other countries undermine our maintaining sanctions only on Belgrade?

Mr. SHATTUCK. These sanctions are blocking access to international financial institutions such as the World Bank and the multi-development banks and other international financial entities, as well as membership in international organizations such as the United Nations, but other organizations as well as the OSCE. These are the earmarks or the hallmarks, if you will, of international acceptance; and they will not be conveyed on any party or, in this case, on Serbia or the Bosnian Serbs, until there is compliance with the Tribunal and also the issue of Kosovo, as you mentioned, as well. That is the U.S. position.

Mr. SMITH. I appreciate that.

Again, I want to thank you for your hands-on leadership with regard to human rights atrocities in the former Yugoslavia, for undertaking your trips, for keeping us apprised. If we do get the green light for this trip—as you know, the Pentagon has asked that there be one trip per House per month and no more. I know you have encouraged us to go as frequently as possible, but I think, logistics being what it is, the Pentagon would rather see fewer.

That having been said, if we do get the green light for this Helsinki Commission trip to be undertaken, I would appreciate any insights you and your staff can provide us so we can maximize our effectiveness. And we are obviously all on the same team on this, and I do appreciate your good work.

Mr. SHATTUCK. I would be happy to help you if you get the green light to go. I look forward to continue to work with you, Mr. Chairman.

Mr. SMITH. It is a matter of when and not if, because if we don't go in February we will go as soon as possible thereafter because I think it is very important the commission be over there.

Mr. SHATTUCK. I will just say a word on that. Be kind to our incredibly overloaded Ambassador John Menjes, who is doing an outstanding job. And whenever I say to people, please, you have got to go to Bosnia, he groans, how am I going to put it all together? But we are going to help him do that, and I think it is important that you go.

Mr. SMITH. OK. Again, I want to thank you for your good work, and this hearing is adjourned.

Mr. SHATTUCK. Thank you.

[Whereupon, at 12:15 p.m., the committee was adjourned.]

APPENDIX

TESTIMONY OF

THE HONORABLE JOHN SHATTUCK

ASSISTANT SECRETARY OF STATE

BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR

AT A HEARING ENTITLED

"PROSPECTS OF PEACE WITH JUSTICE IN BOSNIA"

BEFORE THE

COMMITTEE ON INTERNATIONAL RELATIONS

U.S. HOUSE OF REPRESENTATIVES

FEBRUARY 1, 1996

Mr. Chairman and Members of the Committee, I am pleased to be here today to be able to testify on the human rights situation in Bosnia. Other Administration officials have spoken to you before about our broader objectives in bringing peace to that war-torn country. The war in Bosnia was the worst conflict in Europe since World War II and the biggest threat to the cohesiveness and stability of Europe since the Cold War.

Without the painstaking efforts and leadership of the United States there would have been no peace agreement; continued American leadership will be required if the peace is to take root. We believe the success of the peace process is integrally related to the successful implementation of the human rights provisions of the Dayton accords. For this reason, implementing the human rights elements of Dayton is one of the Administration's highest priority goals for Bosnia.

Each time I have appeared before this Committee in the past, I have underscored the importance of human rights issues as a fundamental pillar of U.S. foreign policy. Nowhere is this more true than in Bosnia and Herzegovina, where Europe witnessed its most terrible crimes against humanity since the Holocaust.

Since the onset of the tragic conflict there, the United States has been committed to exposing and stopping the horrific violations of human rights that were occurring. We brought Bosnia's human rights tragedy before the United Nations as early as August, 1992. In early 1993, we led the effort in the UN Security Council to create a Commission of Experts to investigate war crimes. We subsequently spearheaded the creation of the International War Crimes Tribunal for the former Yugoslavia. We have been the Tribunal's most important supporter, providing it with financing, personnel, political backing, and information. The United States was the first to publicize information on mass graves and other evidence of war crimes and the first to facilitate Tribunal access to witnesses, victims and sites of atrocities.

I myself have visited Bosnia, Croatia, and Serbia on eight separate missions to advance our human rights goals. My efforts centered on exposing violations of human rights by all parties, seeking free access to all parts of Bosnia for international investigators and the media, arranging releases of prisoners and detainees, seeking cooperation with the International War Crimes Tribunal, and facilitating compliance with the peace agreement. I will discuss my own activities further in a moment.

Four broad goals have guided our approach on human rights in the Bosnia conflict:

- First, to end gross violations of human rights;
- Second, to promote institutions to establish individual accountability for war crimes so that justice is done;
- Third, to ensure the release of prisoners and detainees, and to trace missing persons; and
- Fourth, to establish institutional structures that will help insure a peaceful and secure environment in which the people of war-torn Bosnia can enjoy their human rights.

Most of this background is well known to the distinguished members here today. If you wish, however, I will be happy to expand on it and provide any additional details you want during the question period.

What I would like to focus my remarks on today is the Dayton peace accords and our work since November to implement that agreement. As you know, I was at Dayton and was involved personally in negotiating the accords. Since then I have traveled to Europe and to the former Yugoslavia three times to pursue aspects of implementation. I will be leaving for the region again tomorrow, accompanying Secretary of State Christopher, to continue our work.

THE DAYTON ACCORDS

From a human rights perspective, the Dayton accords are a remarkable document. Never before has a peace treaty placed such heavy emphasis on human rights concerns. This emphasis reflects our conviction that human rights issues are at the core of our effort to bring peace to the former Yugoslavia. Let me review for you and expand on some elements of the Dayton agreement:

- First, the accords include a new constitution for Bosnia that guarantees all its people the highest level of internationally recognized human rights and fundamental freedoms. Bosnia and Herzegovina will continue as a single state with two entities, the Federation of Bosnia and Herzegovina and the Serb Republic. It will have effective federal institutions, through which the bulk of international assistance will be distributed, including a presidency; a bicameral legislature; and a constitutional court a third of whose members are appointed by the European Court of Human Rights. The protection of fifteen different international human rights instruments are built into the new constitution. In particular, the European Convention for the Protection of Human Rights and Freedoms will have precedence over Bosnian law in all cases.

- The accords create a Commission on Human Rights to safeguard the rights guaranteed by the constitution. The Commission will have two parts: an independent Human Rights Ombudsman and a Human Rights Chamber.

  -- The Ombudsman has been appointed by the Organization for Security and Cooperation in Europe. She is Gret Haller of Switzerland. She has already begun her work. As Ombudsman, she has the authority to investigate human rights violations, mediate disputes, issue findings, and bring proceedings before the Human Rights Chamber.

  -- The fourteen-member Human Rights Chamber will hear human rights cases and complaints brought by or on behalf of citizens of Bosnia and Herzegovina and by the Ombudsman. It will have the authority to order relief to victims and to order parties to cease and desist from any actions it finds to be in violation of their human rights commitments. A majority of the Chamber's members will be appointed by the Council of Europe.

  -- In addition, Bosnia's constitutional court can hear appeals from entity courts, including on human rights. Three of its nine judges will be appointed by the President of the European Court of Human Rights.

- The Dayton accords provide that free and democratic elections are to be held throughout Bosnia and Herzegovina in the second half of this year to elect a president and legislature of the federation, the presidents and legislatures of the two entities and, if feasible, local officials.

  -- The Dayton agreement obliges the parties to create conditions in which free elections can be held, by protecting the right to vote without fear of intimidation and ensuring freedom of speech, the press and association. The OSCE must certify that conditions exist for free elections.

  -- The preparation of elections will be organized and supervised by the Organization for Security and Cooperation in Europe. This effort will be carried out in conjunction with an electoral commission headed by an OSCE representative and comprised of international experts and representatives of both entities.

-- Refugees and persons displaced by the conflict will have the right to vote in their original place of residence, unless they choose to vote elsewhere. All persons eighteen years old or older listed on the 1991 Bosnian census are eligible to vote.

o The agreement obligates all parties to release, without delay, all civilians and combatants who have been held in relation to the conflict, including those in forced labor, and to give the International Committee of the Red Cross access to all places of detention. This process has begun; I will expand on its status in a moment.

-- The agreement commits the parties to cooperate with the ICRC in finding all missing persons, and to grant UN human rights agencies, the OSCE, and non-governmental organizations full access to monitor the human rights situation.

o Finally, the Dayton accords obligate the parties to cooperate fully with the International War Crimes Tribunal for the former Yugoslavia in its investigations of war crimes and other violations of international humanitarian law, and to comply with its orders.

-- This obligation binds all parties, including Serbia, Croatia, Bosnia and Herzegovina, and the Serb republic.

-- The obligation to cooperate with orders of the War Crimes Tribunal is also enshrined in the new Constitution of Bosnia and Herzegovina. All parties must give the Tribunal unrestricted access to all sites and persons. They are obligated to cooperate with the Tribunal's investigators and to surrender suspects in detention whenever the Tribunal requests them to do so.

-- The agreement stipulates that individuals indicted for war crimes who do not comply with the Tribunal's orders cannot run for or hold elected or appointed office in Bosnia and Herzegovina.

-- The sanctions suspension resolution adopted by the Security Council following Dayton includes provisions that will assist in enforcing compliance with these provisions. Upon the recommendation of the commander of IFOR or the High Representative, if parties are found to be "failing significantly" to meet their obligations, sanctions will be reimposed unless the Security Council decides otherwise.

-- In addition, an "outer wall" of sanctions will remain available, if necessary, in the form of denying access by non-compliant parties to international organizations, international financial institutions, and foreign assistance. We have discussed and agreed with our European allies that economic assistance to the parties will be conditioned in part on their human rights performance.

-- Finally, Security Council resolutions make cooperation with the Tribunal a binding obligation on all nations, which can, if necessary be enforced by further Security Council action. We are very pleased that Section 1342 of the of the Department of Defense Authorization Bill will bring the U.S. into compliance with its international obligation to cooperate with the War Crimes Tribunal. We appreciate the broad, bipartisan support in the Congress for this provision and we hope it will encourage others to follow our example.

I think you will agree, therefore, that the Dayton accords include very strong provisions on human rights. The accords are far more than a statement of principle. They establish new structures for the protection of human rights; they obligate the parties to take a variety of major steps to comply; and they provide for international supervision of human rights performance.

IMPLEMENTATION

The challenge facing us since Dayton has been to put its provisions into practice. We are making good progress, although we still face substantial hurdles. We need to overcome the tremendous distrust and ill will that permeates the political atmosphere in the aftermath of a horrible war. There are likely to be problems and setbacks as we try to move forward. Still, we are determined to make this process work. We have been putting a major effort into implementation.

I would like to comment now on several elements of the implementation process.

Prisoner releases

The release of prisoners of war and civilians detainees is one of the highest priorities on our implementation agenda. Under the Dayton accords, all prisoners were to be released by January 19. The releases were not completed by the target date. Since then, however, there has been substantial progress and most of the first group of prisoners who have been identified and visited by the ICRC have now been released.

The International Committee of the Red Cross has registered a total of 938 prisoners held by the parties. Of these, 225 were released on schedule on January 19. Another 612 have been released since. Our best information is that 101 individuals registered by the ICRC remain in custody. Of these, 17 are held by the Bosnian government, 30 by the Bosnian Serbs and 54 by the Bosnian Croats. Each side asserts that some of the individuals it is holding are war criminals. The Dayton accords do require the parties to cooperate extensively with the International Tribunal so as to help bring about the arrest, detention and surrender of persons who would otherwise be released but who are accused of violations within the jurisdiction of the Tribunal.

My trip to Bosnia last week centered to a considerable extent on breaking the logjam and putting into place a system to ensure compliance with prisoner release obligations. I met with President Milosevic and urged him to press the Bosnian Serbs to move forward with releases. I also met several times with President Izetbegovic and pressed him to comply with his Dayton obligations by releasing immediately and unconditionally all prisoners and detainees. U.S. Ambassador Galbraith in Croatia met with Bosnian Croat officials and with Federation President Zubak to make the same points with them.

The Bosnian leadership was especially concerned that with thousands of its citizens missing, it could not complete releases of Serbian prisoners without some assurance that its people would be fully accounted for. I stressed that the releases could not be conditioned on any other development, but that the issue of the missing would be addressed urgently. Our view is that all prisoners and detainees must be released immediately and unconditionally. This includes not only those in prisons and detention camps, but also individuals held under "work obligation."

To meet Bosnia's legitimate concerns about missing persons, however, I worked with the International Committee of the Red Cross to structure a system for identifying and preparing for the release of any remaining persons held in relation to the conflict. We established a working group led by the ICRC, which will also include representatives of the High Representative, the UN, the OSCE and other relevant parties.

Prisoner releases and accounting for missing persons remain crucial issues for the success of the entire peace process. In view of this, I have proposed that we detail a senior U.S. official to help advance the effort. In addition, I will continue to give personal attention to the prisoner release issue. As one element of this process, I spent several hours earlier this week with Cornelio Sommaruga, President of the ICRC, to coordinate our joint efforts on releases. The ICRC is, as always, is working diligently in difficult circumstances and deserves our full support.

I will be leaving for the region tomorrow with Secretary Christopher; further prisoners releases and the tracing of missing persons will be among the issues on our agenda.

The War Crimes Tribunal

The United States made a major commitment to the International War Crimes Tribunal for the former Yugoslavia. A central element of the effort to bring about peace and reconciliation in Bosnia must be the creation of institutions to pursue truth and justice about the terrible crimes committed during the course of the conflict. As the President emphasized in his October speech on the occasion of the 50th anniversary of the Nuremburg Tribunal, "No peace will endure for long without justice. For only justice can break finally the cycle of violence and retribution that fuels war and crimes against humanity. Only justice can lift the burden of collective guilt.... Only justice can assign responsibility to the guilty and allow everyone else to get on with the hard work of rebuilding and reconciliation."

The War Crimes Tribunal is moving ahead well with its work, under the able leadership of its Chief Prosecutor, Justice Richard Goldstone. It has handed down 52 indictments to date. The Prosecutor's investigative work is proceeding well given its resource constraints, which have been a recurring issue for the office of the Prosecutor. As a result of the Dayton accords, however, investigators are now better able to interview witnesses.

The United States is providing strong support to the Tribunal. To date we have contributed more than $14 million in cash and kind to the Tribunal and have provided 22 U.S. government personnel to assist in its work. We continue to provide the Tribunal with broad diplomatic support. We continue to be the Tribunal's strongest supporter in the UN and other multilateral fora. Secretary Christopher will reiterate this support when he travels to Zagreb, Sarajevo, and Belgrade this weekend.

One additional aspect of our support for the Tribunal which requires special mention is information-sharing. We have provided the Tribunal with all appropriate information available to us from a wide variety of sources, including classified information, on events within its mandate. I have met with Justice Goldstone on this issue, as have the Secretaries of State and Defense and the Director of Central Intelligence. On his most recent visit to Washington, Justice Goldstone pronounced himself fully satisfied with our efforts.

On my trip to the region last week, a major issue was gaining access for the Tribunal to the sites of atrocities and mass murders that occurred during the war. We decided to make Srebrenica, site of one of the worst such massacres, a test case of access and freedom of movement under the Dayton accords. To do this, the U.S. pressed President Milosevic to work with the Bosnian Serbs in granting access and security protection for my team. I informed Milosevic and the Bosnian Serbs that I would be accompanied on my visits by two investigative officials of the Tribunal and that I would have to be guaranteed unimpeded access as required by the Dayton accords. I did not disclose in advance the sites I wished to visit. My team was, in fact, given full and unimpeded access to all sites we wished to visit. The Tribunal investigators who accompanied me filmed sites and collected evidence that will be used in prosecutions. Although this visit was only the beginning of what needs to be done, the cooperation and assistance my mission received was an important test of the willingness of one of the parties to meet its obligations.

In the wake of my visit to Srebrenica, I met in Sarajevo with NATO Commander Admiral Leighton Smith and Justice Goldstone, who agreed on ways to coordinate their respective missions under the Dayton accords. Admiral Smith is satisfied that IFOR will be able to provide appropriate assistance to ensure area security for Tribunal teams carrying out investigations and activities at mass grave sites. Admiral Smith agreed to accept an offer by Justice Goldstone to have a Tribunal official liaise with IFOR, and has agreed to a request by Justice Goldstone to avoid public discussion of details related to future Tribunal requests for IFOR assistance. Justice Goldstone stated during the meeting that he is satisfied with the level of support offered by Admiral Smith and agreed that IFOR support should be provided within the limits of its mandate and available resources.

Before moving to other issues, I should say a few further words on my visit to Srebrenica, which was the most moving and grueling experience I have had in eight trips to the region. I visited seven sites which echoed with the horrors of the conflict: a school and gymnasium near Karakaj where non-Serbs had been herded, then taken in groups of 30 to a field two kilometers away and murdered; an intersection at Konjevici where victims, told to find a free place to stand, had been lined up in rows and shot by armored personnel carriers; a soccer field in Kasaba where as many as 2, 000 Bosnians had been herded before being taken away and killed; two mass graves in Glogova where evidence of human bones and clothing remained; a house in Potocari where Muslims were separated and herded onto buses, and the town of Srebrenica itself, now decimated, where the onslaught began. The starkest site of all was a large warehouse in Kravica -- bloodstained and riddled with bullet holes and evidence of grenades -- where thousands of innocent civilians were murdered in cold blood.

Each site I visited corroborated fully the accounts and detailed descriptions given to me in Tuzla in late July by survivors of the mass executions in Srebrenica. There can be no doubt whatever after such a visit that truly horrendous war crimes did occur. The evidence is clear and compelling. We are paying careful attention to what is happening at these sites, and we have made clear that any attempts to tamper with evidence would be futile. On this matter, as on all others, we will be rigorous and even-handed in insisting that each party adhere fully to the Dayton accords.

I want to reiterate, before I move on to other issues, the importance we attach to the Tribunal and its work. As we have said on many occasions, there can be no lasting peace without justice. Only when the guilty are called to account will the people of Bosnia be able to turn their full energy to building a new and better future.

Elections and Human Rights Activities

Finally, but not least, I'd like to outline for you some of the many human rights activities underway on the civilian side of Dayton implementation. Civilian implementation, of course, did not get off to a quick a start as the military operation. Unlike the military side, entirely new civilian structures must be created and put into place. That takes time -- and resources. Nevertheless, civilian structures are beginning to fall into place and work is underway.

Overall coordination of civilian implementation, including human rights and elections, is carried out by the High Representative, as called for in the Dayton accords. The High Representative's office has established a Human Rights Task Force to coordinate civilian human rights work in Bosnia.

The OSCE is charged with organizing and overseeing free and fair elections throughout Bosnia within six to nine months of signature of the peace accords. It has fielded two visits by an electoral assessment team, in December and again in mid-January. The team has prepared a preliminary planning document, which has been provided to the parties. One of the OSCE's high priorities is to establish a Provisional Election Commission, which will be chaired by an American with experience in the region and on OSCE issues, Ambassador Robert Frowick, who also serves as the OSCE's chief of mission in Bosnia. The seven-member Commissions was named on January 30. Ambassador Frowick will soon announce the criteria which will have to be met before he can recommend to the OSCE that certification should proceed for holding the elections. Frowick has named a senior deputy to assist with preparations for elections.

The OSCE is steadily building up its effort. It is opening five field offices throughout Bosnia and will deploy thirty delegations around the country. The field offices will be staffed initially by European Commission Monitoring Mission and eventually by additional monitors currently being recruited. Several countries, including the U.S., are working on the recruitment effort. The total number of OSCE monitors, both for elections and human rights monitoring, will be 250, of which the U.S. will provide 40-60. The UN High Commissioner for Human Rights in Geneva is also engaged.

The total cost of OSCE activities in Bosnia is estimated at $25 million, of which the U.S. will contribute about $2.25 million.

The OSCE recognizes, quite rightly, the close relationship between human rights conditions in Bosnia and Herzegovina and the ability to certify and hold elections; for this reason, it intends to place a strong emphasis on promoting human rights improvements in the region. Ambassador Frowick is expected soon to appoint a senior deputy for human rights. The OSCE-appointed Ombudsman, Gret Haller, also will play an important role in protecting human rights in the region, in conjunction with the ombudsmen's office created under the federation constitution.

Beyond our support for these multilateral efforts, the U.S. sees a critical need for civil society and rule of law programs in Bosnia. Some immediate civil society programs are planned with SEED funds, to be administered by USAID. When we have been able to make a comprehensive assessment of the current state of the legal and judicial systems in Bosnia, we will be able to consider measures to strengthen the rule of law.

A key to establishing the rule of law and a secure and peaceful environment in Bosnia will be the reconstitution of a civilian police force. Anticipating this need, the Dayton Accords create an International Police Task Force as a UN Civilian Police operation to oversee local police operations. The IPTF will monitor, advise and train local, civilian police forces. Most importantly from a human rights standpoint, the IPTF will accompany the police as they carry out their duties, providing them with on the job training, including respect for human rights, and acting as a check on any potential abuse of police power. The IPTF has already begun its work with almost 200 officers in the field. It remains far short, however, of its goal of 1, 700 officers; achieving this level will require a substantial infusion of international resources.

The U.S. has pledged to provide 200 of the police officers needed, with some portion of that total dedicated to the parallel effort of peacekeeping in Eastern Slavonia. To date, however, we have been unable to transfer the funds necessary for this effort from the Defense Department. I urge Congress to take prompt action of the Administration's $200 million transfer request, some $50 million of which would be dedicated to the IPTF.

Immediate Next Steps

I will depart tomorrow morning with Secretary Christopher for my ninth mission to the region. We will have a full agenda there, and I can assure you that human rights issues will be at the top of the list. In particular, I intend to continue our efforts on the three key sets of issues I outlined for you today: pursuing prisoner releases and accounting for the missing; insuring access for and cooperation with the War Crimes Tribunal; and pressing ahead with implementation of the Dayton agreements on human rights monitoring and elections.

Thank you, Mr. Chairman. I'd be pleased to take your questions.

Statement of Representative Christopher Smith
Chairman, Subcommittee on International Operations and Human Rights

Mr. Chairman, almost three months ago, on the verge of the Dayton Agreement, this Committee held a hearing on essentially the same topic we will address today. Both then and now, these issues are timely and important. Specifically, I hope our witnesses will address several questions which we cannot ignore if we care not only about peace, but also about justice.

Three months ago members of this Committee expressed concern about whether war criminals would really be brought to justice. Bringing perpetrators of human rights violations to account for their crimes is fundamental, not only because victims and families of victims are entitled to see justice done, but also because this is the only meaningful deterrent to future atrocities in future wars. The more important the war criminals, the more important it is to bring them to justice. The international community now faces two important decisions that may be determinative of this issue.

First, can we afford to lose Justice Richard Goldstone, the chief prosecutor of the War Crimes Tribunal? We know that he is needed in South Africa, but he has established his credibility in the former Yugoslavia and in the world, and the work of the Tribunal would suffer badly if he were to leave just as the most serious stage of its work begins. I would like to ask whether the United States government has considered what can be done to persuade South Africa to spare him for a little while longer, and whether we are doing these things?

Second, what actions should our peacekeeping forces take toward the Tribunal and toward war criminals? I do not claim to know the whole answer to this question --- the mission has

never been well defined, and Congress has rightly warned about the possibility of mission creep that involve Americans in active hostilities --- but it would be ironic and tragic if the ultimate definition of our mission was to co-operate with war criminals, but not with the Tribunal. Can we at least provide protection to the investigators who are attempting to gather evidence of genocide before this evidence is destroyed?

The final question is what is happening to the refugees. Some of them will be able to go home --- but it is important to bear in mind that thousands of others, whose villages have been ethnically cleansed beyond redemption, or who have been subjected to such horrors that it is simply wrong to force them back, will need to be resettled. Mr. Chairman, both the full committee and the Subcommittee on International Operations and Human Rights have heard testimony from refugee advocates on this question. It has been clear for several months that the United States must be more generous in its resettlement criteria, and in particular that it must not depend exclusively on UNHCR referrals for refugees in urgent need of resettlement. I would like to ask Mr. Shattuck whether progress has been made on this front, or whether we can expect to see thousands of refugees forced back prematurely to areas where they no longer have homes, and where they may even be in danger.

Mr. Chairman, the Dayton agreement, and the peace that we hope will emerge from it, will set important precedents, for good or bad. These precedents will go a long way toward defining whether peace in the post-Cold War era will be based only on the perceived interests of nations, or whether it will also respect the God-given rights of human beings. If we subordinate human rights and democracy to geopolitical abstractions such as the balance of power, we have won nothing.

COMMISSION ON
SECURITY AND COOPERATION IN EUROPE
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December 8, 1995

The Honorable William J. Perry
Secretary of Defense
Department of Defense
The Pentagon, Room 3E880
Washington, D.C. 20301

Dear Mr. Secretary:

We write today to pose some important questions with regard to the U.S. forces assigned to the NATO Implementation Force in Bosnia. What are the United States' legal obligations concerning the International Criminal Tribunal for the Former Yugoslavia, what are the United States' moral obligations to support the Tribunal's work, and what instructions have you given U.S. forces concerning those legal and moral obligations?

Security Council Resolution 827 (25 May 1993) established the International Criminal Tribunal for the Former Yugoslavia. Paragraph 4 of that Resolution provided that ". . . all States shall cooperate fully with the International Tribunal and its organs in accordance with the present resolution and the Statute of the International Tribunal and that consequently all States shall take any measures necessary under their domestic law to implement the provisions of the present resolution and the Statute, including the obligation of States to comply with requests for assistance or orders issued by a Trial Chamber under Article 29 of the Statute."

Under this United Nations Security Council resolution, the Statute establishing the Tribunal, and other applicable international law, what is the legal obligation of the United States Government should indicted war criminals come within our potential control in the former Yugoslavia? Are we legally obligated to arrest them and deliver them up to the Tribunal for trial?

A summary of the Dayton Peace Agreement provided by the State Department contained a paragraph that states that "[t]he agreement gives IFOR, the peace implementation force, the authority and discretion to use military force to prevent interference with the free movement of civilians, refugees, and displaced persons, and to respond appropriately to violence against civilians. ***IFOR has the authority to arrest any indicted war criminals it encounters or who interfere with its mission, but it will not try to track them down.***" [Emphasis added.]

A review of the text of the Dayton Peace Agreement, its annexes and appendices, and accompanying side letters, failed to locate anywhere in these texts a provision or provisions conferring upon IFOR "the authority to arrest any indicted war criminals it encounters," or, for that matter, to arrest anyone at all. Moreover, paragraph 3 of Appendix B to Annex 1-A provides that

"[a]ll personnel enjoying privileges and immunities under this Agreement shall respect the laws of the Republic of Bosnia and Herzegovina insofar as it is compatible with the entrusted tasks/mandate and shall refrain from activities not compatible with the nature of the Operation." This provision could be wrongfully construed to prohibit U.S. forces from arresting indicted war criminals.

What direction has the United States given its forces concerning encounters with indicted war criminals within the territory of the former Yugoslavia? What is the legal basis for such direction? Will U.S. forces be issued pocket cards containing this direction, and a specific reporting channel should they make an arrest? Will they be provided with wanted posters or other detailed identifying information on all persons indicted for violations of international humanitarian law during the conflict in the former Yugoslavia?

If U.S. forces do encounter and arrest an indicted war criminal, will the United States remove the suspect from the territory of the former Yugoslavia and deliver the suspect to the International Criminal Tribunal for trial? Will the United States seek permission from any entity within the territory of the former Yugoslavia to remove the suspect, or is the United States prepared to act unilaterally?

What direction will be given to U.S. forces to be deployed to the former Yugoslavia concerning the collection of evidence of crimes against humanity or war crimes? Will U.S. forces make an active effort to collect testimony and physical evidence, and protect from destruction physical evidence, including mass grave sites, concentration camps, detention facilities, and records relating to such crimes? We note that the mass grave sites from the Srebrenica massacres appear, according to published maps, to lie within the U.S. zone. Please describe your plans for this effort and specify how the plan will be implemented.

Have U.S. forces been trained to safeguard those aspects of war crimes-relevant materials that must be protected so these materials may be legally admissible before the International Tribunal? Are U.S. staff judge advocate, military police, criminal investigation division, counterintelligence, civil affairs, and other personnel who are likely to come into contact with residents, familiar with the Tribunal's rules of evidence, and how they differ from U.S. rules and the Uniform Code of Military Justice? Please explain how the rules differ and what specific steps you have taken to ensure that U.S. troops identify and properly collect, and do not destroy, contaminate, or otherwise render legally unusable, evidence of war crimes or crimes against humanity that they may encounter on the territory of the former Yugoslavia.

What specific arrangements have been made for reporting war crimes- and crimes against humanity-related information up the U.S. and NATO chains of command in Bosnia? How will this information be passed to the International Tribunal? Is there a memorandum of understanding, an exchange of letters, or any other formal arrangement between NATO and the International Tribunal? Between the U.S. and the Tribunal? Is there a designated position/person in IFOR who is

specifically tasked with the responsibility of liaising with the Tribunal and arranging for transfer of custody of suspects and/or evidence?

What arrangements has the Department made with the Department of State concerning reporting war crimes- and crimes against humanity-related information to the International Tribunal? If there is not a formal arrangement between NATO or IFOR and the Tribunal, is there an agreement with State that State will receive and forward such information to the Tribunal?

If the International Tribunal asks U.S. forces to secure a specific area within the U.S. zone until an investigative team can arrive, will U.S. forces do so? Under the Status of Forces Agreement, could U.S. forces secure, for example, an office building holding records from a prison camp?

What is your understanding of the moral responsibility of the United States to take action against suspected war criminals or persons who allegedly committed crimes against humanity in the former Yugoslavia? By "action," we are referring to a range of initiatives from their arrest, through collection and preservation of evidence of the crimes and cooperation with international investigations of the crimes. Have you taken any action to instruct and educate U.S. forces concerning this responsibility, so that they may be properly sensitized to it? (Regular instruction in the Law of Land Warfare is clearly insufficient in such an extreme case as the alleged violations of international humanitarian law that have reportedly occurred in the former Yugoslavia.)

Will U.S. civil affairs and/or psychological operations units be tasked to inform the public in the U.S. zone that the U.S. is actively seeking information concerning war crimes and crimes against humanity, and provide to the public points of contact in IFOR or the U.S. contingent of IFOR for them to call or visit to provide such information?

When refugees or displaced persons pass through the U.S. zone and have contact with U.S. forces, will our forces be instructed to ask if they have any information on war crimes or crimes against humanity? Will U.S. forces be issued pocket cards with such questions, and a reporting channel for forwarding the information?

What arrangements have been made to provide speakers of the Bosnian languages who will serve as translators for U.S. forces deployed as part of IFOR? How many translators do you expect you will need? How will you obtain them? In making these arrangements, has war crimes reporting been a consideration in interpreter selection? Is there a plan to train interpreters in U.S. military terminology? If interpreters will undergo any training, will war crimes reporting be included in that training?

While we understand that it may take the Department some time to answer these questions, and many of the people who would know the answers to these questions are essential to the actual deployment of IFOR to the former Yugoslavia, we believe that these questions are sufficiently

important to warrant consideration before U.S. forces are present on the ground in full strength. It would be a very grave matter if U.S. forces were inadvertently to allow a war criminal to escape, or were to destroy vital criminal evidence during the deployment process. Accordingly, we ask that these questions receive prompt and careful consideration by the responsible officials, and we look forward to receiving your response in writing in a timely manner.

Sincerely,

Alfonse D'Amato, U.S.S.
Cochairman

Christopher H. Smith, M.C.
Chairman

QUESTION FOR THE RECORD
SUBMITTED TO HON. JOHN SHATTUCK
COMMITTEE ON INTERNATIONAL RELATIONS
FEBRUARY 1, 1996

1. The signals given regarding IFOR's role in apprehending war criminals and protecting and reporting on evidence found have been mixed well before your recent visit to Srebrenica, which is what really brought attention to the issue. As early as December 8, Senator D'Amato and myself, as co-chairs of the Helsinki Commission, sent a detailed letter of inquiry on this matter to Secretary Perry, which I asked be incorporated into the record of this hearing (see first attached item). Is it your sense that the Dayton Agreement does give IFOR the authority to apprehand war criminals and protect and report on evidence found, and that IFOR decided not to utilize that authority?

IFOR commanders will assist the Tribunal in apprehending war criminals and protecting and reporting on evidence to the maximum degree possible within the limits of IFOR's assigned principal tasks and available resources. Tribunal Chief Justice Goldstone stated he is satisfied with the level of cooperation the Tribunal is receiving from IFOR.

IFOR will not seek out war criminals. If in the accomplishment of their principal assigned mission tasks IFOR forces encounter an individual who has been indicted by the Tribunal, that person will be detained and turned over to the Tribunal.

One example of IFOR cooperation with the Tribunal is the issue of identification of war criminals. To help IFOR troops identify indicted war criminals, IFOR requested additional

records and information from the Tribunal. So far, the Tribunal has provided photographs of 17 of the 52 indicted war criminals and is expected soon to provide the rest. IFOR has produced a poster incorporating this information and 10,000 copies are being distributed to the three IFOR divisions operating in Bosnia. The poster will familiarize IFOR troops with the physical appearance and background of individuals under indictment by the Tribunal.

To clarify further the modalities of how IFOR would detain and transfer indicted war criminals, NATO has tasked SHAPE to develop practical arrangements with the Tribunal. These arrangements will be memorialized in a Memorandum of Understanding (MOU), which is currently being drafted and will be concluded shortly. The MOU will specify, in detail, the procedures for detention, handling and transfer of indicted war criminals as well as covering general liaison and support arrangements.

IFOR is not a police force and will not have principle responsibility for security functions not related to its principal military tasks. If, however, IFOR troops witness attacks on international civilian personnel or gross violations of human rights, they have the authority to intervene in order to prevent such attacks.

QUESTION FOR THE RECORD
SUBMITTED TO HON. JOHN SHATTUCK
COMMITTEE ON INTERNATIONAL RELATIONS
FEBRUARY 1, 1996

2. How is IFOR's apparent response to the protection of mass grave sites different from the response of UNPROFOR to the mass grave site outside of Vukovar in Croatia? It seems that UNPROFOR, despite its otherwise poor performance, did protect that site, and that IFOR is taking a step back.

IFOR will provide appropriate assistance to ensure area security for Tribunal teams carrying out investigations and activities at mass grave sites. IFOR will not have a separate mission to escort normal civilian movements nor does it have the resources to provide round-the-clock protection of the hundreds of suspected war crimes sites. But IFOR will respond positively to specific Tribunal requests whenever possible.

We are continuing to look into ways to provide security at mass grave sites. One possibility we are thinking of is proposing to the UN using local police accompanied by International Police Task Force monitors.

QUESTION FOR THE RECORD
SUBMITTED TO HON. JOHN SHATTUCK
COMMITTEE ON INTERNATIONAL RELATIONS
FEBRUARY 1, 1996

3. Has any consideration been given to the establishment of a special military escort unit to assist those investigating war crimes in the former Yugoslavia? I recall that the Dutch had earlier offered such an escort to Srebrenica when the mass graves were first revealed?

IFOR does not have a separate mission to escort normal civilian movements, but IFOR will respond positively to specific requests to do so whenever possible. For example, upon my request, IFOR provided me with an escort of tanks and other armored vehicles when I visited the Omarska mass grave site recently in northwestern Bosnia. We are also looking at the use of local police in cooperation with the International Police Task Force to provide escort to sites of atrocities.

Bosnian Serb police, together with security agents provided by FRY President Milosevic, escorted me to Srebrenica where I had full and free access to all sites. We expect this kind of cooperation with investigations will be accorded to the Tribunal.

QUESTION FOR THE RECORD
SUBMITTED TO HON. JOHN SHATTUCK
COMMITTEE ON INTERNATIONAL RELATIONS
FEBRUARY 1, 1996

4. Last December, the Helsinki Commission held a hearing on mass graves and other atrocities. One of the witnesses was an impressive forensic pathologist from Albany, NY, named Barbara Wolf. Her compelling testimony of examining mass graves in Croatia and Bosnia under the auspices of AmeriCares led me to wonder whether we are adequately putting our own country's forensic expertise at the disposal of those who will investigate what happened in the fields outside of Srebrenica. Have you included, or are you willing to include, a forensic pathologist on your team when visiting these sites?

When I visited the massacre sites in Srebrenic I offered to take along two experts from the War Crimes Tribunal. Neither of the two the Tribunal assigned to accompany me were forensic pathologists. Physicians for Human Rights is doing an assessment of just what kind of technical expertise will be needed when examination of the sites begin. I will look into the possibility of taking a forensic pathologist with me in future visits to mass grave sites.

QUESTION FOR THE RECORD
SUBMITTED TO HON. JOHN SHATTUCK
COMMITTEE ON INTERNATIONAL RELATIONS
FEBRUARY 1, 1996

5. Many people feel there is circumstantial evidence that implicates the involvement of Slobodan Milosevic, the President of Serbia, in war crimes. The Bosnian and Krajina Serb militants probably could not have orchestrated their aggression, nor sustained it for so many years, without his help. The fact that he has seemingly stopped the conflict almost confirms his earlier power over the Serbs who committed the atrocities. I know it is for the international tribunal, and not the U.S. Government, to look at the evidence and issue indictments, but is the U.S. Government dissuading the tribunal from indicting Milosevic in any way? Would the U.S. Government view such an indictment, in the service of justice, as nevertheless harmful to the peace process?

We are not dissuading the Tribunal in any way from indicting one who may have been responsible for committing war crimes. It is fundamental to the peace process that justice is done. Making exceptions would undermine the Tribunal and the peace process itself. We therefore support the Tribunal's efforts to follow the evidence wherever it leads.

QUESTION FOR THE RECORD
SUBMITTED TO HON. JOHN SHATTUCK
COMMITTEE ON INTERNATIONAL RELATIONS
FEBRUARY 1, 1996

6. What knowledge do we have of mass graves created by either the Bosnians or the Croats? Is there not evidence of such graves, albiet on a smaller scale, in Croatia subsequent to the retaking of the occupied, "Krajina" territories in August of last year?

There are reports of mass graves created by Bosnian Muslims or Croats, and these will be investigated as well as those created by the Serbs. There are mass graves in Krajina which the Croatian government claims were mass burials of soldiers. The Croatian authorities have allowed UN officials access to those sites.

QUESTION FOR THE RECORD
SUBMITTED TO HON. JOHN SHATTUCK
COMMITTEE ON INTERNATIONAL RELATIONS
FEBRUARY 1, 1996

7. It seems as if most Serbs, even those who have done nothing wrong themselves, believe the propaganda they have been fed all these years. When confronted with the facts of what their militant brethren have done, they either point to what the other ethnic groups have allegedly done to them, or completely deny that Serbs could do such evil things in the first place. What, beyond a freer media, can be done to get those innocent Serbs to come to terms with what has been done in their name so that they can begin to distance themselves from what has been done in their name? Is anybody trying to educate the Serbs?

We are not aware of any projects, government or private, designed to help Serbs come to terms with what has been done in their name. We will include this point as an item in our discussions with relevent NGOs.

QUESTION FOR THE RECORD
SUBMITTED TO HON. JOHN SHATTUCK
COMMITTEE ON INTERNATIONAL RELATIONS
FEBRUARY 1, 1996

8. During the entire course of the war, the area around Banja Luka has seen some of the worst Serb atrocities against non-Serbs. Recently, however, there are reports of the Croatian military forcibly removing the few remaining Bosnian Croats from northwestern Bosnia. What information do you have on this, and has the State Department raised this with Zagreb?

We have heard reports that Bosnian Croat forces had removed some Bosnian Croat civilians against their will from towns in northwestern Bosnia that are to come under Serb control under the Dayton Agreement. We have not been able to confirm reports that Bosnian Croats had been moved against their will. We have made clear to the Croatian government and the Bosnian Croat authorities that their full cooperation in implementing the Dayton Agreement is expected and that continued ethnic cleansing is unacceptable.

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QUESTION FOR THE RECORD
SUBMITTED TO HON. JOHN SHATTUCK
COMMITTEE ON INTERNATIONAL RELATIONS
FEBRUARY 1, 1996

9. I made a statement in the Congressional Record last December critiziaing Croatia because of the burning, looting and killing of elderly Serbs following the retaking of Krajina in August, as well as Zagreb's unwillingness to surrender the Bosnian Croat general indited by the tribunal (see second attached item). What is your understanding of Croatia's willingness to cooperate with the tribunal?

Croatian officials have assured us of their intention to cooperate fully with the Tribunal and the Croatian parliament is working to pass legislation that would provide the framework for the extradition of war criminals and for broad cooperation with the Tribunal, including investigations. Cooperation with the Tribunal is part of the commitments Croatia made under Dayton, and we expect full compliance with all such commitments.

The real test will come when the legislation is passed and indicted war criminals such as Tiofil Blaksic, who currently holds a senior position in the Croatian army, must be surrendered to the Tribunal.

QUESTION FOR THE RECORD
SUBMITTED TO HON. JOHN SHATTUCK
COMMITTEE ON INTERNATIONAL RELATIONS
FEBRUARY 1, 1996

10. The State Department has said an outer wall of sanctions will remain on Serbia and Montenegro based on concerns about Kosovo and cooperation with the war crimes tribunal. What are these sanctions, and what are the conditions for lifting them? Will the lack of cooperation with the tribunal on the part of other countries undermine our maintaining sanctions only on Belgrade?

The outer wall sanctions include access to and membership in International Financial Institutions (IFIs) such as the World Bank and International Monetary Fund, and membership in international organizations. Before these sanctions can be lifted, the FRY must comply with the Dayton Agreement; cooperate fully with the International War Crimes Tribunal; improve respect for political and human rights in Kosovo; and resolve issues among the successor states to the former Yugoslavia, including mutual recognition and the treatment of assests and liabilities. We also want to see FRY cooperation in the peaceful return of Eastern Slavonia to Croatian government control and an improvement in FRY's treatment of its ethnic minorities. In addition, UNSC Resolution 1023 makes clear that if the HIREP or the IFOR commander informs the UNSC that the FRY or Bosnian Serb authorities are failing significantly to meet their obligations under the peace agreement, then the suspension of UN-imposed economic sanctions will also be terminated. Lack of cooperation on the part of other parties would not undermine our holding Serbia to the above conditions.

QUESTION FOR THE RECORD
SUBMITTED TO HON. JOHN SHATTUCK
COMMITTEE ON INTERNATIONAL RELATIONS
FEBRUARY 1, 1996

11. In the past few weeks, there has been increasing talk of national war crimes trials in the region. On the one hand, the International Tribunal does not have the resources to try all the potential criminals out there. On the other hand, national trials will almost certainly be deeply flawed. How can these competing interests be reconciled?

Our focus is on supporting the International War Crimes Tribunal and we encourage all parties to work with the Tribunal in any of their own investigations into war crimes. The Tribunal has the right to indict anyone on charges of war crimes and other violations of international humanitarian law. The Tribunal has concurrent jurisdiction with national courts to prosecute violations of international humanitarian law. According to Article 9 of the Tribunal's statute, the Tribunal has primacy over national courts and at any stage of the procedure the Tribunal may formally request national courts to defer to the competence of the Tribunal.

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